

REYNOLDS MARKETING SERVICES COMPANY ("RMSC")

RETAIL MARKETING PLAN CONTRACT 2022 TOTAL NICOTINE PLAN

Reynolds Marketing Services Company ("RMSC") and the signatory retail account ("Retailer") enter into the following Retail Marketing Plan Contract (the "RMPC"), effective the later of December 2, 2024, or the date of execution.

BACKGROUND:

- Reynolds American Inc. ("RAI") is the parent corporation of R. J. Reynolds Tobacco Company ("RJRT"), Santa Fe Natural Tobacco Company, Inc. ("SFNTC"), American Snuff Company, LLC ("ASC"), R. J. Reynolds Vapor Company ("RJRVC"), RJR Vapor Co., LLC ("RJRVC LLC"), and Modoral Brands Inc. ("MBI"). RJRT, SFNTC, ASC, RJRV, RJRV LLC, and MBI (collectively, the "Companies") each sell tobacco, vapor, new modern oral, and/or nicotine products.
- RAI is also the parent corporation of RMSC and RAI Services Company ("RAISC"). RMSC provides trade marketing services to the Companies, including management of their relationships, agreements, and programs with Retailer, and RAISC provides services to RMSC and the Companies with respect to their relationships, agreements, and programs with Retailer.
- This RMPC governs various matters related to the sale, merchandising, advertising, and promotion of (i) factory made cigarette products and roll-your-own tobacco products ("FMC Products"), (ii) traditional smokeless tobacco products ("Traditional Oral Products"), (iii) e-cigarette and vapor products that may or may not contain nicotine ("Vapor Products"), and (iv) new modern oral products that may or may not contain nicotine ("NMO Products" and, collectively, with FMC Products, Traditional Oral Products and Vapor Products, and any new products which might be introduced by one or more of the Companies from time to time, the "Products") sold by one or more of the Companies. The Companies are third party beneficiaries of this RMPC. "Competitive Products" are those products that compete or may compete with the Products.
- In this RMPC, when RMSC is used as a modifier (e.g., "RMSC product," "RMSC advertisement," etc.), the meaning of RMSC includes RMSC as well as the Companies. For example, reference to (i) an "RMSC product" means a Product sold by one of the Companies and (ii) an "RMSC advertisement" means an advertisement supplied by RMSC for a brand or Product sold by one of the Companies.
- Retailer agrees that any and all information that RMSC, the Companies, or RAISC obtains pursuant to or related to this RMPC (including but not limited to MSAi data, information submitted by Retailer, information obtained from audits of Retailer, information obtained from Retailer's suppliers, and/or information obtained from any other sources) may be shared by and between RMSC, the Companies, RAISC, any other company owned by RAI, and RAI.
- This RMPC is structured as a master agreement governing the sale, merchandising, advertising and promotion of any or all Products which Retailer chooses to sell, merchandise, advertise and promote to its adult nicotine customers ("ANCs"). Provisions set out under headings that are designated as being "Applicable to All Product Categories" shall apply to Retailer in all respects during the term of this RMPC and in respect of all Products that Retailer chooses to sell, merchandise, advertise and promote to its ANCs. Provisions designated as being applicable to only a particular Product Category (e.g., "Applicable to FMC Products" or "Applicable to Traditional Oral Products") shall apply to Retailer only in respect of Retailer's sale, merchandising, advertising and promotion of the Products within such Product Category. Provisions designated as being applicable to only a particular program type or Product Category are applicable only if and to the extent that Retailer has communicated to RMSC that Retailer wishes to participate in such program or Product Category. RMSC's records as to Retailer's program and Product Category elections shall be determinative.
- Notwithstanding the foregoing, if Retailer chooses to offer and sell non-RMSC products within a Product Category, excluding de minimis amounts, then Retailer shall be deemed to have "opted in" to the requirements applicable to that Product Category as set forth in this RMPC, and such requirements shall automatically apply to Retailer. For the avoidance of doubt, the "Product Categories" are FMC Products, Traditional Oral Products, Vapor Products, and NMO Products. For purposes of this paragraph, "**de minimis amounts**" are those that are below the weekly minimum volume requirements for the applicable Product Category as set forth below.

1. BASE REQUIREMENTS (APPLICABLE TO ALL PRODUCT CATEGORIES)

A. ENGAGEVIP.COM

- Retailer agrees to enroll in engageVIP.com (the "Website") and to provide and update as necessary a valid email address. RMSC may, in its sole discretion, provide notices related to this RMPC electronically in writing by posting on the Website and/or by sending an email. Retailer agrees to receive notices electronically through the Website or email including, without limitation, notices related to: (i) alterations, amendments, or modifications to the RMPC; (ii) discounting, promotions, or other payments; (iii) availability of new, or changes to existing, discounting, promotional, or other payment programs; or (iv) termination of a contract or promotional program.
- Retailer agrees to access the Website regularly, but no less frequently than once per calendar month, and to review its business email regularly, but no less frequently than once per calendar week. Retailer acknowledges that Retailer's failure to access the Website regularly, or review its business email regularly, may result in Retailer choosing not to receive important information and notices about the RMPC or the availability of discounting, promotional, or other payment programs or opportunities. Retailer waives any and all claims at law or in equity it may have against RMSC, RAISC, RAI or the Companies that arise out of or relate to Retailer's failure to access the Website regularly, to review its business email regularly, or to provide and update its email address as needed.

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B. INVENTORY, PRESENCE, SPACE AND POSITION REQUIREMENTS

Inventory Requirements

- Retailer will carry and maintain ongoing availability of brands and styles of the Products in all price tiers as requested by RMSC and will maintain adequate inventory of the Products to prevent out-of-stock conditions. Without limitation to the foregoing, Retailer will provide space required for RMSC distribution needs both on and off the primary merchandising fixture. RMSC's total contracted space must be sufficient in size to maintain at least 1.5 weeks of Product inventory for RMSC-designated brand styles.
- Retailer will accept product force outs for new brand introductions and/or promotions as requested by RMSC and will maintain distribution of such Products for the lesser of at least 12 months or until the Product becomes an Expired Product (as defined below).
- Retailer must purchase the Products only from wholesale supplier(s) that provide certain sales volume data, known as Shipment To Retail data ("**STR data**"), to RMSC through the Management Science Associates, Inc. ("**MSAi**") clearinghouse.
- Retailer will retain purchase invoices and detailed sales data for at least 12 months after receipt of payment from RMSC related to the purchases. Retailer shall reimburse RMSC for any payments for which the Retailer does not have supporting invoices and data.
- Retailer will permit RMSC to inspect and rotate the Products. For Traditional Oral Products, Vapor Products and NMO Products, Retailer shall rotate the Products on a first in, first out basis and allow RMSC to remove from sale each unit of the Products that is past the RMSC-designated "Best Before" date ("**Expired Product**").

Presence and Space Requirements

- The Products, and displays and signage for the Products, (i) will be maintained by Retailer in a highly visible, primary line of sight position, and (ii), subject to higher requirements applicable to a particular Product Category as provided for herein, must occupy at least the #1 or #2 position as defined and determined by RMSC.
- Retailer will permit RMSC to determine the utilization of RMSC Featured Space (as defined herein) with regards to display type, advertising size and configuration and other attributes affecting the way in which the Products are presented to Retailer's ANCs.
 - "**Featured Space**" means merchandising space no less than 24 inches from the bottom shelf of the fixture or 27 inches from the floor and highly visible from the point of purchase. The 24/27-inch rule applies to all sets and configurations but may be modified in "highly visible" low profile sets at the discretion of RMSC.
- If Retailer elects to designate a tobacco or nicotine industry package merchandiser, then the Products must also occupy space on this fixture that is equal to RMSC's Outlet SOM or RMSC's Local SOM (each as defined below), whichever is highest.
 - "**Local SOM**" means the local trading area share of market for the Products, as determined by RMSC.
 - "**Outlet SOM**" means the outlet share of market for the Products, as determined by RMSC. For an outlet that is part of a chain, the aggregated market share for such chain may be used as the Outlet SOM as determined by RMSC.
- The customer checkout area in Retailer's outlets will be a minimum of 6 feet wide with a profile of merchandising on the selling counter no higher than 12 inches to ensure clear visibility of the Featured Space.
- RMSC will be allowed to place off-set price communication signage for up to four brands within each of Retailer's outlets in a highly visible location as determined by RMSC. Notwithstanding the foregoing, if no competitive off-set price signage is present in a particular outlet, Retailer is not required to have off-set RMSC price signage in that outlet, provided that Retailer provides sufficient space, to the satisfaction of RMSC, on the merchandising set for RMSC price communications.
- If Retailer elects to place competitive signage off the merchandising set or utilizes other touchpoints to advertise Competitive Products or brands outside the merchandising set, RMSC will be allowed to place a percentage of comparable signage or other advertising or materials in an amount equal to RMSC's Outlet SOM or the percentage of space allocated to RMSC in the merchandising plan, whichever is greater as determined by RMSC. RMSC will have a permanent location on the backbar for VAP Products and/or communication that is highly visible to ANCs, and Retailer will accept and promptly place product and signage upon arrival.
- Retailer will provide space for at least one tagged merchandising slot for each brand style of the Products as designated by RMSC.
- Retailer will obtain prior approval from RMSC for any advertising or signage materials utilizing RMSC supplied graphics or artwork.
- Retailer will not restrict RMSC's ability to display, promote or distribute the Products during any period in which this RMPC is in effect.
- If any competitive displays are maintained outside the backbar tobacco set (e.g., on selling counter), RMSC's equivalent brand display(s) (as determined by RMSC) will be maintained to match the competitive display(s).
- Retailer will not permit additional advertising of any kind, including for Retailer's own products, to be affixed to or interfere with RMSC's contracted space. RMSC displays, advertising, and featured space may not be impaired or obstructed from view of ANCs.
- RMSC merchandisers, displays, and other signage will be lighted as designated by RMSC.
- RMSC reserves the right for final approval of RMSC's display and advertising types, sizes, and locations and any changes thereto. Retailer will maintain display and advertising space according to RMSC's authorized plan-o-gram.
- If RMSC merchandisers, displays, signage or point of sale materials are moved from the agreed upon location or removed from Retailer's premises by any party other than Retailer or RMSC, Retailer will help RMSC investigate and fully cooperate with requests for relevant information (e.g., statements from employees, outlet surveillance tapes, etc.).
- Retailer shall represent the Products and the Companies' brands well at retail and shall not disparage any of the Products, the Companies, or their respective brands, all as determined by RMSC.

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- Retailers not meeting the presence and space requirements in this RMPC should discuss other available merchandising alternatives with an RMSC representative.

Position Requirements

- Retailer shall merchandise Products in either a vertical or a horizontal format, in accordance with this RMPC.
- For Retailers that utilize the vertical merchandising format (the "**Vertical Merchandising Format**"):
 - Featured Space will be arranged vertically and contiguously with the Products occupying space in the #1 or #2 position, but in no case less than 2 linear feet (the fixture header does not count as part of RMSC's merchandising space). If Retailer elects to arrange a portion of its contiguous space horizontally, the Products must occupy space equal to that agreed upon by Retailer and RMSC.
 - RMSC Products will occupy the fixture canopy in the #1 or #2 position. RMSC Featured Space will begin at the lowest edge of the fixture canopy continuing vertically down the fixture until the RMSC percentage of space requirement is satisfied.
- OR
- RMSC will occupy, at RMSC's discretion, canopy, and Featured Space on either or both sides of the fixture until the RMSC percentage of space is satisfied. The fixture header does not count as part of RMSC's merchandising space.
- RMSC Featured Space will be no less than 2 linear feet in a vertical contiguous merchandising reference on a minimum of one side of the fixture or 50% of category header merchandising space, whichever is greater, and RSMC category SOM in product facing merchandising space.
- RMSC Featured Space will be separated by no more than 6 linear feet.
- For Retailers that utilize the horizontal merchandising position option, the Products will be merchandised horizontally in the "Featured Space" in no less than the #2 position as defined by RMSC. RMSC Products must occupy a minimum height of 18" across the fixture beginning directly behind the primary point-of-purchase and spreading equilaterally until the space requirement is met.
- For the avoidance of doubt, Retailer may use different merchandising position formats for different Product Categories.

C. RMSC-PROVIDED MATERIALS

- From time to time, RMSC or one of the Companies may provide certain items of shelving, fixtures, or other tangible materials to Retailer, for Retailer's use in promoting and marketing the Products under this RMPC (such items, the "**Provided Materials**"). By accepting delivery of such Provided Materials, Retailer irrevocably agrees as follows:
 - Unless otherwise stipulated by RMSC, Retailer acquires all right, title and interest in, to and under the Provided Materials.
 - THE PROVIDED MATERIALS ARE TRANSFERRED TO RETAILER "AS IS, WHERE IS" AND "WITH ALL FAULTS," AND RETAILER EXPRESSLY DISCLAIMS THE EXISTENCE OF ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, ORAL, OR WRITTEN, AS TO THE CONDITION, MERCHANTABILITY, COLLECTABILITY, OPERATION, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR AS TO ANY OTHER MATTER WHATSOEVER WITH RESPECT TO SUCH PROVIDED MATERIALS. RETAILER ASSUMES AND AGREES TO PAY, PERFORM AND DISCHARGE ALL LIABILITIES, OBLIGATIONS, TAXES, FEES, EXPENSES AND OTHER COSTS ("**COSTS**") ARISING OUT OF THE PROVIDED MATERIALS OF WHATEVER KIND OR NATURE, AND RETAILER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS RMSC, RAI, THE COMPANIES AND RAISC AND EACH OF THEIR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS WITH RESPECT TO ANY SUCH COSTS.
 - If RMSC has agreed to install the Provided Materials, then Retailer shall prepare and grant access to the installation location(s) so that RMSC's representative can freely, easily, and safely access and install the Provided Materials at a mutually agreeable time, without interruption, delay, or injury to the RMSC representative. RSMC's representative shall use commercially reasonable efforts to install the Provided Materials in a proper manner. Subject to the foregoing, Retailer hereby expressly waives and releases any and all claims, now known or hereafter known, against RMSC, the Companies, RAISC and/or RAI and their respective directors, officers, employees and agents (the "**Releasees**") on account of any personal injury, illness, pain, disability, death, property damage or financial loss arising out of or attributable to the installation of the Provided Materials by or on behalf of RMSC, and Retailer covenants not to bring or make any such claim against any Releasee; provided that this waiver does not extend to claims for gross negligence or any liabilities that are not permitted to be released or waived under applicable law.
 - If Retailer installs (or hires a third party to install) the Provided Materials, then Retailer assumes all Costs associated with or arising out of such installation, and Retailer shall indemnify, defend, and hold harmless the Releasees with respect to such Costs.
- From time to time, RMSC may stipulate that ownership of certain Provided Materials is to be retained by RMSC (the "**RMSC-Owned Provided Materials**"). By accepting delivery of such RMSC-Owned Provided Materials, Retailer irrevocably agrees as follows:
 - Retailer will maintain the RMSC-Owned Provided Materials as directed by RMSC. RMSC is providing the RMSC-Owned Provided Materials for Retailer's use in performing under this RMPC, but RMSC will retain all legal title to and ownership of the RMSC-Owned Provided Materials, and RMSC shall be entitled to remove the RMSC-Owned Provided Materials at any time. Retailer shall keep the RMSC-Owned Provided Materials free and clear of all liens, mortgages, pledges, encumbrances or other security interests of any kind or nature ("**Liens**"), and Retailer shall affect the removal of any Liens immediately upon written notice thereof from RMSC or otherwise upon becoming aware of the existence of any such Lien.

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- Only RMSC employees and/or authorized third-party representatives are authorized to service, repair, modify, relocate, remove, or adjust the RMSC-Owned Provided Materials. Retailer shall grant access to RMSC and its third-party representatives to service, repair, modify, relocate, remove, and adjust the RMSC-Owned Provided Materials. RETAILER ACKNOWLEDGES THAT THE RMSC-OWNED PROVIDED MATERIALS ARE BEING PROVIDED FOR RETAILER'S USE "AS IS, WHERE IS" AND "WITH ALL FAULTS", AND RETAILER HEREBY EXPRESSLY DISCLAIMS THE EXISTENCE OF ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, AS TO THE CONDITION, MERCHANTABILITY, COLLECTABILITY, OPERATION, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR AS TO ANY OTHER MATTER WHATSOEVER WITH RESPECT TO SUCH RMSC-OWNED PROVIDED MATERIALS.
- Retailer shall prepare and grant access to the installation location so that RMSC's representative can freely, easily, and safely access and install, and, upon termination of this RMPC or as otherwise determined by RMSC, to deinstall and remove, the RMSC-Owned Provided Materials at a mutually agreeable time, without interruption, delay, or injury to the RMSC representative.
- During the term of this RMPC, Retailer's utilization of any Provided Materials is subject to RMSC's prior approval.

D. CONSUMER PRICING FAIRNESS PROGRAM (THE "CPF PROGRAM")

- Retailer will maintain prominent and accurate price communication on and off the merchandising set as determined by RMSC, including on all discounted (off-invoice and/or retail discounts) and/or otherwise promoted brand styles.
- Retailer will not engage in deceptive or misleading price communications.
- Retailer will ensure that the price charged to its ANC's is not greater than communicated prices.
- RMSC's ability to advertise price for the Products will be no less than at parity with suppliers of Competitive Products..
- Retailer will perform price changeovers, and execute pricing changes at the beginning of promotions, as directed by RMSC.
- RMSC may offer discounts, price reductions or promotions to meet discounts, reductions or promotions made by competitors. To assist with making such offers, RMSC requires accurate information about competitors' discounts, reductions, and promotions. Retailer agrees to provide accurate information to RMSC, if requested by RMSC, concerning a competitive discount, reduction, or promotion as well as changes in those competitive discounts, reductions, or promotions.
- Retailer shall price all Products competitively with other Competitive Products.
- Retailer must pass through to ANC's no less than the full amount of all RMSC discounting (whether provided by RMSC through monthly or pulse discounting), value added promotions ("VAP") and other price reductions or promotions. Retailer must pass through the discounting or promotion regardless of unit configuration (e.g., packs, multi-pack specials, cartons, tins, sleeves, etc.) or loyalty/frequent shopper programs. Retailer must apply the discounting or promotion on a product-by-product, brand style-by-brand style, outlet-by-outlet, value-by-value basis. If, due to any action of Retailer, any amount of RMSC discounting or promotion is not or cannot be passed through directly to ANC's, this RMPC will automatically terminate when RMSC becomes aware of such inability.
- If Retailer fails to meet fully the CPF Program requirements, RMSC may elect in its discretion and at any time (i) not to pay retail discounting to Retailer, (ii) to suspend any or all other types of payments under this RMPC, and/or (iii) immediately to terminate this RMPC. RMSC's failure to take action at any particular time shall not act as a waiver of RMSC's rights hereunder.
- Nothing in the CPF Program requires Retailer to increase, or should be interpreted to suggest that Retailer should increase, the price of any of the Products, any Competitive Products, or any other products. Retailer is always free to lower the prices on the Products.
- Upon request, Retailer must provide to RMSC any information and documentation (e.g., invoices or other cost data, sales data, scan data, register tapes, agreements related to discounting), in a form satisfactory to RMSC, that RMSC deems necessary to determine whether Retailer is in compliance with the CPF Program. Retailer will provide RMSC with accurate and truthful information and documentation. If Retailer fails to furnish the required information and documentation when requested, RMSC will deem Retailer to be *not* in compliance with the CPF Program requirements.
- Retailer will comply with the applicable Product Category CPF Program pricing requirements outlined in Article 2 below for all Product Categories in which Retailer participates, and such pricing requirements are part of the CPF Program described in this Section 1.D.
- RMSC will (i) use only RMSC's methodologies and compliance tools to determine compliance with the CPF Program and (ii) determine in its sole discretion whether Retailer is in compliance.
- To determine whether the Product Category CPF Program pricing requirements are satisfied, RMSC's representative will enter the observed prices (the prices observed when the representative enters an outlet) of the applicable RMSC brands and comparison brands (each as defined in the applicable CPF Program pricing rules in Article 2 below) into an RMSC compliance tool.
 - The RMSC representative will first compare the observed prices against calculated maximum prices for the RMSC brands. The data used to calculate the maximum prices includes (but is not necessarily limited to) manufacturers' list prices, state excise taxes, an assumed uniform wholesale markup (the minimum markup required by law in fair trade states; 3.5% in other states), and actual manufacturers' retail discounting rates.
 - If the initial calculation shows non-compliance, RMSC will perform a second calculation using the Retailer's actual wholesale prices for the RMSC brands and comparison brands. If the second calculation shows non-compliance, RMSC will deem the outlet to be *not* in compliance with the CPF Program requirements.
 - When calculating the effect of manufacturers' retail discounting rates on selling prices for purposes of CPF Program compliance, RMSC's preferred method is to calculate a selling price based on wholesale price/cost plus a markup, and then to deduct a manufacturer's retail discounting.
 - When calculating the effect of manufacturers' retail discounting rates on selling prices for purposes of CPF Program compliance, RMSC's alternative method is to calculate a selling price based on an adjusted wholesale cost (wholesale price/cost minus a

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manufacturer's retail discounting) plus a markup. RMSC will use this alternative method if retailer employs such a method to calculate the price of the comparison brands.

2. PRODUCT CATEGORY REQUIREMENTS (REQUIREMENTS ARE APPLICABLE TO RETAILER BASED ON RETAILER'S PRODUCT CATEGORY PARTICIPATION ELECTIONS)

A. REQUIREMENTS FOR THE FMC PRODUCTS CATEGORY (APPLICABLE TO RETAILERS SELLING FMC PRODUCTS)

Inventory, Presence and Space Requirements: Portfolio and Menthol Options

- Retailers must elect either the **"FMC Products Portfolio Option"** or the **"FMC Products Menthol Option."**
- For Retailers that elect the FMC Products Portfolio Option, the following requirements shall apply:
 - Retailer's outlet or account average Industry Cartons Per Week ("**CPW**") of cigarette products must be 26 CPW or greater; provided that the 26 CPW minimum requirement shall not apply during any period in which Retailer participates in RMSC's Scan Data Reporting Program ("**SDRP**") with a status of "validated."
 - Retailer will merchandise and offer for sale single packs of cigarettes in each of its outlets. The by-the-pack offerings for RJRT and SFNTC FMC Products will include a variety and quantity of brand styles in all price tiers adequate to satisfy local market demand as determined by Retailer, in consultation with RMSC.
 - Retailer will merchandise and sell the FMC Products in one of the following configurations:
 - A consolidated cigarette category section of merchandising located under a canopy or signage; or
 - In a backbar set, defined as in-line merchandising located behind the primary point of purchase, with an agreed upon percentage of the backbar set within the primary line of sight and highly visible and with display presence for the FMC Products within the backbar set; or
 - On the primary selling counter or in the primary transaction area, as designated by RMSC, with displayed product accessible to retailer personnel only.
 - For backbar configurations, the FMC Products will occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) eight square feet.
 - For traditional pack and kiosk configurations, FMC Products will occupy space (size and number of pieces) on the Kiosk window or counter that is equal to, at a minimum, the greater of (i) RMSC's Outlet SOM or (ii) RMSC's Local SOM. In no case will the FMC Products have less than three displays and/or three square feet of presence. One of the RMSC priority brand displays (as defined and selected by RMSC) will be maintained on the front selling counter if any competitive display(s) are on the front selling counter. This option is only available if there is no visible consolidated backbar.
- For Retailers that elect the FMC Products Menthol Option, the following requirements shall apply:
 - Retailer's outlet or account average Cartons Per Week of cigarette products must be 10 RMSC cartons or greater.
 - Each of Retailer's outlets must have an industry menthol share of market of 50% or greater.
 - The FMC Products, and displays and signage for the FMC Products, will be maintained in a highly visible, primary line of sight position, and must occupy the #1 position as defined by RMSC if RMSC Outlet SOM or RMSC Local SOM is #1. If Philip Morris USA has a Retail Leaders Program in the outlet, and RMSC Outlet SOM or RMSC Local SOM is #2, RMSC may occupy the #2 position as defined by RMSC.
 - For backbar configurations, the FMC Products will occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) three square feet.
 - For traditional pack and kiosk configurations, FMC Products will occupy space (size and number of pieces) on the Kiosk window or counter that is equal to, at a minimum, the greater of (i) RMSC's Outlet SOM or (ii) RMSC's Local SOM. In no case will the FMC Products have less than three displays and/or three square feet of presence. One of the RMSC Priority Brand Displays (as defined and selected by RMSC) will be maintained on the front selling counter if any competitive display(s) are on the front selling counter. This option is only available if there is no visible consolidated backbar.
 - RMSC Featured Space shall be capped at 65% of the available merchandising space for cigarettes.

CPF Program Pricing Rules for the FMC Product Category

- For purposes of CPF Program pricing for FMC Products, the following definitions apply:
 - **"Comparison Brands"** means any brand style of Marlboro, Kool, and/or Winston cigarette products.
 - **"margin"** means the retail selling price minus cost of goods divided by retail selling price. Example: if a product costs \$2.50 and a retailer sells it for \$3.00, then retailer makes a margin of $\$3.00 - \$2.50 = \$0.50 \div \$3.00 = .167$ or 16.7%.
 - **"markup"** means the retail selling price minus cost of goods divided by cost of goods. Example: if a product costs \$2.50 and a retailer sells it for \$3.00, then retailer makes a markup of $\$3.00 - \$2.50 = \$0.50 \div \$2.50 = .20$ or 20%.
 - **"penny profit"** means the retail selling price minus cost with the difference expressed in terms of dollars per unit. Example: if a product costs \$2.50 and a retailer sells it for \$3.00, then the retailer has a penny profit of \$0.50.
 - **"RMSC Brands"** means all styles of Natural American Spirit, Camel, Newport, Lucky Strike and Pall Mall FMC Products.

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- Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) for each style of RMSC Brands must be no greater than the lowest margin, markup, or penny profit Retailer uses or has for the comparable Comparison Brand (i.e., the smallest amount of margin, markup, or penny profit shall be applied to the RMSC Brands). Retailer is always free to lower the prices on the Products. If Retailer participates in and complies with the EDLP Program (defined below), then Retailer will be in compliance with the EDLP Brand single pack and carton pricing portion of the CPF Program. If Retailer participates in and complies with the FMC VLP Program (defined below), then Retailer will be in compliance with the FMC VLP Brand single pack and carton pricing portion of the CPF Program.
- If Retailer offers a multi-pack price for the Comparison Brands and funds a price reduction (from Retailer's single pack price) for any such multi-pack offer(s), then (i) Retailer must offer a multi-pack price on the comparable RMSC Brand (except as stated below under Multi-Pack Exception); and (ii) the multi-pack offers must include all unit configurations (e.g., two-pack specials, three-pack specials) that Retailer offers for the multi-pack priced Comparison Brands. Retailer has two pricing options: (a) Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) on the multi-pack price for the RMSC Brands must be no greater than the lowest margin, markup, or penny profit Retailer uses or has for the comparable brand style of the Comparison Brands for which Retailer has a multi-pack price (i.e., the smallest amount of margin, markup, or penny profit shall be applied to the RMSC Brands); or (b) Retailer must provide a price reduction (in cents) for the RMSC Brands multi-pack offers that is no less than the largest price reduction (in cents) that Retailer funds for the comparable Comparison Brands.
 - *Multi-Pack Exception:* Retailer may choose not to offer a multi-pack price on the RMSC Brands. If Retailer chooses this option, then Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) for the single pack price of the RMSC Brands must be no greater than the lowest margin, markup, or penny profit (i.e., the smallest amount of margin, markup, or penny profit shall be applied to the RMSC Brands) Retailer uses or has for the comparable brand style of the Comparison Brands for which Retailer has a multi-pack price (if by penny profit, measured by the penny profit per pack).
- The CPF Program specifies the only pricing methodologies – margin, markup, or penny profit – Retailer may use to calculate pricing.
- As a limited exception to the foregoing, Retailers in RMSC-defined "alternative markets" will use the following rules to price RMSC's designated brand(s) of FMC Products:
 - Retailer's maximum penny profit for all styles of such RMSC-designated brand(s) must be no greater than the lowest penny profit Retailer uses or has for any brand style of any competitive savings brand cigarette product (i.e., cigarette products not made by RJRT or SFNTC) that Retailer sells. Retailer is always free to lower the prices on the Products.
 - If Retailer offers a multi-pack price for any competitive savings brand cigarette product (i.e., cigarette products not made by RJRT or SFNTC) and funds a price reduction (from Retailer's single pack price) for any such multi-pack offer(s), then (i) Retailer must offer a multi-pack price on all styles of the RMSC-designated brand(s) (except as stated below under Multi-Pack Exception); and (ii) the multi-pack offers must include all unit configurations (e.g., two-pack specials, three-pack specials) that Retailer offers for the multi-pack priced competitive savings brand cigarette product(s). Retailer's maximum penny profit on the multi-pack price for the RMSC-designated brand(s) must be no greater than the lowest penny profit Retailer uses or has for any brand style of any competitive savings brand cigarette product (i.e., cigarette products not made by RJRT or SFNTC) for which Retailer has a multi-pack price (i.e., the smallest amount of penny profit shall be applied to the RMSC brand cigarettes).
 - *Multi-Pack Exception:* Retailer may choose not to offer a multi-pack price on the RMSC-designated brand(s). If Retailer chooses this option, then Retailer's maximum penny profit for the single pack price of the RMSC-designated brand(s) must be no greater than the lowest penny profit Retailer uses or has for any brand style of savings brand cigarette product for which Retailer has a multi-pack price (measured by the penny profit per pack).

B. REQUIREMENTS FOR THE TRADITIONAL ORAL PRODUCT CATEGORY (APPLICABLE TO RETAILERS SELLING TRADITIONAL ORAL PRODUCTS)

Inventory, Presence and Space Requirements

- Retailer's outlet or account average Industry Cans Per Week of traditional oral products must be 26 Cans Per Week or greater; provided that the 26 Cans Per Week requirement shall not apply during any period in which Retailer participates in RMSC's SDRP with a status of "validated."
- Retailer will merchandise and offer for sale single cans of the Traditional Oral Products in each of its outlets. The by-the-can offerings for ASC's and RJRT's Traditional Oral Products will include a variety and quantity of brand styles in all price tiers adequate to satisfy local market demand as determined by Retailer, in consultation with RMSC; provided, however, that the requirements of this provision do not apply to U.S. military customers that are required to sell Traditional Oral Products only by the sleeve at the direction of the U.S. Department of Defense or local command.
- Retailer will merchandise and sell Traditional Oral Products in one of the following configurations:
 - A consolidated traditional oral category section of merchandising located under a canopy or signage; or
 - A backbar set utilizing fixtures or shelving located behind the primary point of purchase, with an agreed upon percentage of the backbar within the primary line of sight and highly visible and with display presence for the Traditional Oral Products within the backbar set; or
 - In freestanding displays highly visible from the primary transaction area, as designated by RMSC, with displayed product accessible to retailer personnel only.

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- The Traditional Oral Products must be displayed in a front-faced or top-faced manner (also known as **"showcase merchandising"**).
- If freestanding RMSC showcase merchandising displays are supplied by RMSC as Provided Materials or RMSC-Owned Provided Materials, only RMSC products and signs may occupy such displays.
- "Featured Space" will be arranged contiguously with the Traditional Oral Products occupying showcase merchandising in the #1 or #2 position as determined by RMSC. The Traditional Oral Products must occupy the fixture canopy if merchandised in the #1 position (the fixture header does not count as part of RMSC's merchandising space).
- If competitive displays are maintained outside the backbar, and those displays have 20 or more facings or occupy 2 square feet or more of space, RMSC may elect to place a freestanding showcase merchandising display with up to 2 square feet in either the #1 or #2 position as determined by RMSC.
- For backbar and freestanding display configurations, Traditional Oral Products must occupy space (size and number of pieces) on the display that is equal to, at a minimum, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) two square feet. In no case will the Traditional Oral Products have less than 2 square feet or be merchandised in less than the #2 position as determined by RMSC. The freestanding display configuration option is not available if any competitive traditional oral products are merchandised on a backbar fixture.
- For kiosk configurations, Traditional Oral Products will occupy space (size and number of pieces) on the kiosk window that is equal to, at a minimum, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) 1.25 square feet. In no case will the Traditional Oral Products have less than 1.25 square feet or be merchandised in less than the #2 position as determined by RMSC.

CPF Program Pricing Rules for the Traditional Oral Product Category

- For purposes of CPF Program pricing for the Traditional Oral Product Category, the terms **"margin," "markup" and "penny profit"** have the meanings set forth above under the heading "CPF Program Pricing Rules for the FMC Product Category." In addition, the following definitions apply:

"RMSC Traditional Oral Brand(s)"	"Comparison Traditional Oral Brand(s)"
Kodiak, Levi Garrett	Copenhagen (Premium Styles, as determined by RMSC) and Skoal (Premium Styles, as determined by RMSC)
Grizzly	Copenhagen (Non-Premium Styles, as determined by RMSC), Red Seal, and Skoal (Non-Premium Styles, as determined by RMSC)
Cougar	Longhorn, Kayak, Timber Wolf, Husky, and other brand(s) as determined by RMSC
Grizzly Snus, Camel Snus	Skoal Snus, General Snus

- Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) for each style of RMSC Traditional Oral Brands must be no greater than the lowest margin, markup, or penny profit Retailer uses or has for the comparable comparison brand (i.e., the Comparison Traditional Oral Brand(s) set forth opposite the applicable RMSC Traditional Oral Brand in the table above), such that the smallest amount of margin, markup, or penny profit shall be applied to the RMSC Traditional Oral Brand. Retailer is always free to lower the prices on the Products. If Retailer participates in and complies with the Traditional Oral VLP Program, then Retailer will be in compliance with the Traditional Oral VLP Brand portion of the CPF Program.
- If Retailer offers a multi-can price for a Comparison Traditional Oral Brand(s) and funds a price reduction (from Retailer's single can price) for any such multi-can offer(s), then (i) Retailer must offer a multi-can price on an RMSC-designated Traditional Oral Brand(s) (except as stated below under Multi-Can Exception); and (ii) the multi-can offers must include all unit configurations (e.g., two-can specials, three-can specials) that Retailer offers for the multi-can priced Comparison Traditional Oral Brand. Retailer has two pricing options: (a) Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) on the multi-can price for the RMSC-designated Traditional Oral Brand must be no greater than the lowest margin, markup, or penny profit Retailer uses or has for any brand style of the Comparison Traditional Oral Brand for which Retailer has a multi-can price (i.e., the smallest amount of margin, markup, or penny profit shall be applied to the RMSC-designated Traditional Oral Brand); or (b) Retailer must provide a price reduction (in cents) for the RMSC-designated Traditional Oral Brand multi-can offers that is no less than the largest price reduction (in cents) that Retailer funds for the Comparison Traditional Oral Brand.
 - **Multi-Can Exception:** Retailer may choose not to offer a multi-can price on the RMSC-designated Traditional Oral Brand. If Retailer chooses this option, then Retailer's maximum margin, markup, or penny profit (as applicable, depending on the pricing method used by Retailer) for the single can price of the RMSC-designated Traditional Oral Brand must be no greater than the lowest margin, markup, or penny profit (i.e., the smallest amount of margin, markup, or penny profit shall be applied to the RMSC-designated Traditional Oral Brand) Retailer uses or has for any brand style of the Comparison Traditional Oral Brand(s) for which Retailer has a multi-can price (if by penny profit, measured by the penny profit per can).
- The CPF Program specifies the only pricing methodologies – margin, markup, or penny profit – Retailer may use to calculate pricing.

C. REQUIREMENTS FOR THE VAPOR PRODUCT CATEGORY (APPLICABLE TO RETAILERS SELLING VAPOR PRODUCTS)

Inventory Requirements

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- Retailer's outlet or account average Industry Units Per Week of vapor products must be 40 Units Per Week or greater; provided that the 40 Units Per Week minimum requirement shall not apply during any period in which Retailer participates in RMSC's SDRP with a status of "validated."

CPF Program Pricing Rules for the Vapor Product Category

- For purposes of CPF Program pricing for the Vapor Product Category, the term "**penny profit**" has the meaning set forth above under the heading "CPF Program Pricing Rules for the FMC Product Category." In addition, the following definitions apply:
 - "**RMSC Vapor Brand**" means all styles of Vapor Products sold by one or more of the Companies.
 - "**Comparison Vapor Brands**" means any brand style of JUUL vapor products, or such other product brand styles as determined by RMSC.
- Retailer's maximum penny profit for each style of the RMSC Vapor Brand must be no greater than the lowest penny profit Retailer uses or has for the comparable Comparison Vapor Brands (i.e., the smallest amount of penny profit shall be applied to the RMSC Vapor Brand). Retailer is always free to lower the prices on the Products.
- If Retailer offers a multi-pack price or bundled offer for the Comparison Vapor Brands and funds a price reduction (from Retailer's single pack price) for any such multi-pack or bundled offer(s), then (i) Retailer must offer a multi-pack or bundled price on the RMSC Vapor Brand (except as stated below under Multi-Pack Exception); and (ii) the multi-pack or bundled offers must include all unit configurations (e.g., two-pack specials, power unit and pod bundle) that Retailer offers for the multi-pack or bundle priced Comparison Vapor Brands. Retailer has two pricing options: (a) Retailer's maximum penny profit on the multi-pack or bundled price for the RMSC Vapor Brand must be no greater than the lowest penny profit Retailer uses or has for the comparable brand style of the Comparison Vapor Brands for which Retailer has a multi-pack or bundled price (i.e., the smallest amount of penny profit shall be applied to the RMSC Brands); or (b) Retailer must provide a price reduction (in cents) for the RMSC Vapor Brand multi-pack or bundled offers that is no less than the largest price reduction (in cents) that Retailer funds for the comparable Comparison Vapor Brands.
 - *Multi-Pack Exception:* Retailer may choose not to offer a multi-pack or bundled price on the RMSC Vapor Brand. If Retailer chooses this option, then Retailer's maximum penny profit for the equivalent single or non-bundled unit configuration(s) of the RMSC Vapor Brand must be no greater than the lowest penny profit (i.e., the smallest amount of penny profit shall be applied to the RMSC Vapor Brand) Retailer uses or has for any comparable brand style of the Comparison Vapor Brands for which Retailer has a multi-pack or bundled price (measured by the penny profit).
- The CPF Program specifies the only pricing methodology – penny profit – Retailer may use to calculate pricing.

D. REQUIREMENTS FOR THE NMO PRODUCT CATEGORY (APPLICABLE TO RETAILERS SELLING NMO PRODUCTS)

Inventory Requirements

- Retailer's outlet or account average Industry Cans Per Week of new modern oral products must be 26 Cans Per Week or greater; provided that the 26 Cans Per Week minimum requirement shall not apply during any period in which Retailer participates in RMSC's SDRP with a status of "validated."

E. PRESENCE AND SPACE REQUIREMENTS FOR THE VAPOR AND NMO PRODUCT CATEGORIES (APPLICABLE IF RETAILER PARTICIPATES IN EITHER OR BOTH PRODUCT CATEGORIES; IF RETAILER PARTICIPATES IN ONE PRODUCT CATEGORY BUT NOT BOTH, THEN REFERENCES TO THE NON-PARTICIPATING PRODUCT CATEGORY AND THE SPLIT CATEGORY OPTION ARE INAPPLICABLE)

- Retailer shall allow RMSC to place highly visible point of sale materials for the Vapor Products and the NMO Products. Size, type, and position of point-of-sale material will be determined by RMSC representative.
- Retailer shall utilize either a Consolidated Category Option or a Split Category Option for purposes of marketing and selling the Vapor and NMO Products. The "**Consolidated Category Option**" means that Retailer merchandises the Vapor and NMO Products in a single section, under a single canopy header, within the larger tobacco and nicotine merchandise display. The "**Split Category Option**" means that Retailer merchandises the Vapor and NMO Products in different sections, under different canopy headers, within the larger tobacco and nicotine merchandise display.
- For Retailers that utilize the Consolidated Category Option, the following requirements shall apply:
 - For backbar configurations, the Vapor and NMO Products will occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) four square feet. Featured Space will be arranged contiguously with the Vapor and NMO Products occupying shelving in the #1 or #2 position as determined by RMSC. The Vapor and/or the NMO Products must occupy the fixture canopy if merchandised in the #1 position (the fixture header does not count as part of RMSC's merchandising space).
 - For freestanding display configurations, the Vapor and NMO Products will occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) two square feet. In addition, the display must

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be located in highly visible space in or on the backbar or counter. Space location, size, and configuration will be determined by RMSC.

- For kiosk display configurations, the Vapor and NMO Products will occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) 1.25 square feet. For traditional pack and kiosk configurations, the Vapor and NMO Products will occupy highly visible space on the counter and/or kiosk window. Space location, size, and configuration will be determined by RMSC.
- For Retailers that utilize the Split Category Option, the following requirements shall apply:
 - For backbar configurations:
 - One of the two Product Category sections (either the Vapor Products or the NMO Products) must occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) four square feet, and
 - The second of the two Product Category sections must occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) two square feet.
 - For each of the two separate Featured Space areas dedicated to the two Product Categories, such Featured Space must be contiguous, with the Products occupying shelving in the #1 or #2 position as determined by RMSC. The Products must occupy the fixture canopy if merchandised in the #1 position (the fixture header does not count as part of RMSC's merchandising space).
 - For freestanding display configurations, the Vapor and NMO Products will each occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) two square feet. In addition, the display must be located in highly visible space in or on the backbar or counter. Space location, size, and configuration will be determined by RMSC.
 - For kiosk display configurations, the Vapor and NMO Products will each occupy Featured Space that is equal to, as determined by RMSC, the greater of (i) RMSC's Outlet SOM, (ii) RMSC's Local SOM, and (iii) 1.25 square feet. For traditional pack and kiosk configurations, the Vapor and NMO Products will occupy highly visible space on the counter and/or kiosk window. Space location, size, and configuration will be determined by RMSC.
- If competitive displays are maintained outside the backbar, and those displays have 20 or more facings or occupy 2 square feet or more of space, RMSC may elect to place a freestanding showcase merchandising display with up to 2 square feet in either the #1 or #2 position as determined by RMSC.
- Retailer will merchandise and display the Vapor and NMO Products in a location that is outside RMSC's contracted Featured Space for FMC Products as designated under this RMPC.

3. **PROGRAM REQUIREMENTS (REQUIREMENTS ARE APPLICABLE TO RETAILER BASED ON RETAILER'S PROGRAM PARTICIPATION ELECTIONS)**

A. **"MOBILE COUPON PROGRAM" FOR BRAND "APPS" (APPLICABLE TO PARTICIPATING RETAILERS)**

- The Companies may from time to time offer digital coupons directly to ANCs via software applications ("**Brand Apps**") for brands of Products (example, a Camel App may offer discount coupons for Camel products). Retailer agrees to accept, unless prohibited by applicable law or regulation, all valid coupons offered via a Brand App for the Products.
- Brand Apps may contain a store locator function enabling ANCs to determine those retail locations that redeem coupons provided via the Brand App. Retailer agrees to allow its store location(s) to be noted in the Brand App.
- RMSC issues, from time to time, a Coupon Redemption Policy for retailers. Retailer agrees to abide by the terms of all RMSC Coupon Redemption Policies.

B. **FMC PRODUCT CATEGORY EVERY DAY LOW PRICE PROGRAM ("EDLP Program") AND FMC PRODUCT VARIABLE LOW-PRICE PROGRAM ("FMC VLP Program") (APPLICABLE TO PARTICIPATING RETAILERS)**

FMC PRODUCT EVERY DAY LOW PRICE PROGRAM (APPLICABLE TO PARTICIPATING RETAILERS)

- Retailer will maintain the requirements of the EDLP Program, in each of its retail outlets, in the states specified by RMSC. Unless otherwise specified in writing by RMSC, the EDLP Program applies in all fifty states and the District of Columbia. As a limited exception to the foregoing, if the FMC VLP Program is available or offered in a state or market (as determined by RMSC), Retailer may elect to participate in the FMC VLP Program in that state or market; provided, however, that Retailer must remain compliant with the requirements of the EDLP Program in all other states and markets where the FMC VLP Program is not available or offered.
- The "**EDLP Brand**" is defined as the lowest priced RMSC FMC brand based on net price to the Retailer after all trade discounting and the application of CPF Program rules.
- Retailer agrees to price and sell to consumers the EDLP Brand, 365 days per year, at equal to or less than the lowest price offered for any cigarette products in Retailer's outlets (i.e., an every day low price). The price of the EDLP Brand must be equal to or less than the lowest price offered for single pack pricing and for other saleable units and/or configurations (e.g., two-pack specials, three-pack specials, cartons). RMSC will determine, in its sole discretion, what constitutes cigarette products (for example, RMSC considers cigarettes constructed on a retailer's premises through use of a "roll your own" machine to constitute a cigarette product).

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- The maximum price of the EDLP Brand must always be equal to or less than the lowest priced cigarette brand(s) offered for sale or sold in Retailer's outlets *including cigarette brand(s) whose prices would otherwise be lower due to discounting, promotions, or other price reductions offered on those brand(s)*.
 - The italicized language is meant to ensure that the pricing requirement for the EDLP Brand applies with respect to all cigarette brands for which the majority of volume and styles in the brand are routinely priced (even if the manufacturer calls the pricing temporary or promotional). The EDLP Brand must always be equal to or less than the lowest price in the outlet as against such brands in all units and/or configurations (e.g., two-pack specials, three-pack specials, cartons).
 - As a limited exception to the foregoing, RMSC does not consider a lower price as the result of a VAP for a full price brand or a targeted offer for a full price brand that is directed at a specific ANC through digital means (as an example, RMSC considers Marlboro to be a full price cigarette brand), to violate the pricing requirement for EDLP Brand. For purposes of this exception, a VAP is a *temporary price on a limited quantity of specially marked products*.
 - Retailer may always price an RJRT or SFNTC FMC Product at a price lower than EDLP Brand.
- Nothing in the EDLP Program requires Retailer to increase, or should be interpreted to suggest that Retailer should increase, the price of any competitive manufacturer's cigarette products.
- Using the pricing guide in the EDLP Program, Retailer will feature, promote, and communicate the EDLP Brand as the lowest priced brand of cigarettes that Retailer sells. In particular, Retailer will:
 - to any ANC who asks for a low or the lowest priced cigarette product, offer the EDLP Brand to that ANC as the Retailer's featured low-priced cigarette product;
 - provide clear EDLP Brand price communication to ANCs;
 - display and merchandise the EDLP Brand inventory at parity with, or superior to, any other savings brands;
 - provide parity or superior distribution of the EDLP Brand styles compared to other savings brands; and
 - provide advertising that is at least on parity with advertising for any other savings brands of cigarettes.
- In connection with Retailer's participation in the EDLP Program, RMSC may provide certain promotional payments (for discounting, VAP, or otherwise) or other promotional assistance to Retailer that are unavailable to Retailers that choose not to participate in the EDLP Program. RMSC will specify from time to time the amount and nature of the promotional payments which Retailer can receive.
- Retailer is eligible to receive any such promotional payments under the EDLP Program only if Retailer meets fully the requirements of the EDLP Program. If Retailer fails to perform in whole or part any requirement of the EDLP Program during a given period, RMSC has no obligation to make any payments to Retailer for that period.

FMC BRAND VARIABLE LOW PRICE PROGRAM (APPLICABLE TO PARTICIPATING RETAILERS)

- Retailer will maintain the requirements of the FMC VLP Program, in each of its retail outlets, in the states or markets specified by RMSC. RMSC may choose from time to time in its sole discretion the states or markets in which it will conduct the FMC VLP Program. If Retailer participates in the FMC VLP Program and Retailer owns or operates retail outlets in states or markets where the FMC VLP Program is not offered or available, then Retailer is required to participate in the EDLP Program in the other states or markets where the FMC VLP Program is not offered or available.
- The "**FMC VLP Brand**" is defined as the Lucky Strike brand of FMC Products or any another RMSC-designated brand of FMC Products that is priced lower than the Lucky Strike brand based on net price to the Retailer after all trade discounting and application of CPF Pricing rules.
- Retailer agrees to price and sell to consumers the FMC VLP Brand, 365 days per year, within a predefined gap (by state or market) of the lowest priced cigarette products in Retailer's outlets. The price of the FMC VLP Brand must be within the predefined gap of the lowest price offered for single pack pricing and for other saleable units and/or configurations (e.g., two pack specials, three-pack specials, cartons). RMSC will determine, in its sole discretion, what constitutes cigarette products (for example, RMSC considers cigarettes constructed on a retailer's premises through use of a "roll your own" machine to constitute a cigarette product).
- The maximum price of the FMC VLP Brand will always be within the predefined gap of the lowest priced cigarette brand(s) offered for sale or sold in Retailer's outlets *including cigarette brand(s) whose prices are lower due to discounting, promotions, or other price reductions offered on those brand(s)*.
 - The italicized language is meant to ensure that the pricing requirement for the FMC VLP Brand applies with respect to all cigarette brands for which the majority of volume and styles in the brand are routinely priced (even if the manufacturer calls the pricing temporary or promotional) at savings brand levels. The FMC VLP Brand must always be within the predefined gap of the lowest price cigarette brand in the outlet as against such brands in all units and/or configurations (e.g., two pack specials, three-pack specials, cartons).
 - Retailer may always price an RJRT or SFNTC FMC Product at a price lower than the FMC VLP brand.
- Nothing in the FMC VLP Program requires Retailer to increase, or should be interpreted to suggest that Retailer should increase, the price of any competitive manufacturer's cigarette products.
- In connection with Retailer's participation in the FMC VLP Program, RMSC may provide certain promotional payments (for discounting, VAP, or otherwise) or other promotional assistance to Retailer that are unavailable to Retailers that choose not to participate in the FMC VLP Program. RMSC will specify from time to time the amount and nature of the promotional payments which Retailer can receive.

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- Retailer is eligible to receive any such promotional payments under the FMC VLP Program only if Retailer meets fully the requirements of the FMC VLP Program. If Retailer fails to perform in whole or part any requirement of the FMC VLP Program during a given period, RMSC has no obligation to make any payments to Retailer for that period.

C. TRADITIONAL ORAL PRODUCT CATEGORY VARIABLE LOW PRICE PROGRAM ("Traditional Oral VLP Program") (APPLICABLE TO PARTICIPATING RETAILERS)

- The "**Traditional Oral VLP Brand**" is defined as either the Cougar or the Grizzly brand of Traditional Oral Products, as designated by RMSC on a state-by-state basis from time to time. The "**Comparison VLP Brands**" are Husky, Wolf, Timber Wolf, Longhorn, and such other brands as selected by RMSC.
- Retailer agrees that its maximum price for each style and format of the designated Traditional Oral VLP Brand shall, for 365 days per year, not exceed a predefined gap (by state) of the price charged by Retailer for any of the equivalent styles and formats (as determined by RMSC) of the Comparison VLP Brands in Retailer's outlets.
- The maximum price for the Traditional Oral VLP Brand will always be within the predefined gap of the price for each of the Comparison VLP Brands offered for sale or sold in Retailer's outlets *including Comparison VLP Brands whose prices are lower due to discounting, promotions, or other price reductions offered on those brand(s) as determined by RMSC.*
- Retailer may always price an ASC or RJRT Traditional Oral Product at a price lower than the Traditional Oral VLP Brand.
- Nothing in the Traditional Oral VLP Program requires Retailer to increase, or should be interpreted to suggest that Retailer should increase, the price of any competitive manufacturer's products. Retailer may always price the Traditional Oral VLP Brand at a price lower than the maximum price gap designated by RMSC and/or at a price lower than the equivalent Comparison VLP Brand(s).
- In connection with Retailer's participation in the Traditional Oral VLP Program, RMSC may provide certain promotional payments (for discounting, VAP, or otherwise) or other promotional assistance to Retailer that are unavailable to Retailers that choose not to participate in the Traditional Oral VLP Program. RMSC will specify from time to time the amount and nature of the promotional payments which Retailer can receive.
- Retailer is eligible to receive any such promotional payments under the Traditional Oral VLP Program only if Retailer meets fully the requirements of the Traditional Oral VLP Program. If Retailer fails to perform in whole or part any requirement of the Traditional Oral VLP Program during a given month, RMSC has no obligation to make any payments to Retailer for that month.

D. PROFITABILITY ENHANCEMENT PAYMENTS ("PEPs"), JOINT BUSINESS FUNDS ("JBFs") AND OTHER PAYMENTS (APPLICABLE TO PARTICIPATING RETAILERS)

- Retailer may be eligible to earn profitability enhancement payments ("**Profitability Enhancement Payments**" or "**PEPs**"), Joint Business Funds ("**JBFs**") and/or other similar payments for RMSC-designated "**Qualified Products**" purchased during a stated time period. RMSC will publish from time-to-time information specifying the PEPs, JBFs and/or other payments available to a Retailer and the associated terms and conditions. That publication will specify, among other details: (i) the Qualified Products (brands and styles) on which a Retailer can earn such payments; (ii) the states in which such payments are available; (iii) the payment rates; and (iv) any other terms or conditions applicable to the earning or use of such payments. Unless otherwise communicated by RMSC, payment rates will be based on a rate per sales unit and determined by multiplying the published rate by the total quantity of Qualified Product units purchased during a relevant time period.
- RMSC will determine in its sole discretion the Qualified Products (if any) on which it offers PEPs, JBFs and/or other payments, the rates for and durations of such payments, the method and timing of payment, the states where such payments are available, any other terms or conditions applicable to earning or use of such payments, including whether Retailer has earned payment. RMSC reserves the right to modify or cancel any PEPs, JBFs and/or other payments at any time.
- At a minimum frequency, RMSC will pay Retailer on a quarterly basis any payments that are due to Retailer under any ongoing PEP, JBF or similar program (if any) (subject to Retailer's compliance with this RMPC and any other applicable terms or conditions).
- RMSC will make PEPs, JBFs and/or similar payments based upon the STR data (rounded to the nearest whole sales unit) supplied to RMSC through MSAi by the Retailer's supplier(s) of RMSC Qualified Products. No other data will be accepted.
- Only domestic Products sold from a retail outlet in face-to-face transactions with ANCs for personal consumption are eligible to be considered Qualified Products. The maximum total PEPs a Retailer may earn is \$1,560 per outlet per quarter.
- Retailer may, from time to time, have the opportunity to choose between PEPs or JBFs based on program eligibility and options.
 - JBFs are accrued funds on specified RMSC Qualified Products that must be used in an RMSC-approved manner to either reduce the price of RMSC brands based on program criteria or to support marketing activities in states where price reduction is not allowed.
 - To the extent permissible by applicable law and subject to limitations that may, from time to time be set RMSC in certain jurisdictions, JBFs are not required to be spent in the outlet or state in which they are earned.
 - JBFs that are not utilized prior to RMSC-defined utilization deadlines shall be permanently forfeited by Retailer.
- In addition to other opportunities that may be communicated, Retailer may be eligible to earn the following types of PEPs and/or JBFs if it meets the specified criteria. Retailer will publish periodically the rates for and durations of the below PEPs and/or JBF opportunities.

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- **"EDLP Program" PEPs or JBFs:** Retailer is eligible to earn **"EDLP Program"** PEPs and/or JBFs if (i) Retailer participates in and complies with all requirements of this RMPC applicable to the FMC Product Category, and (ii) Retailer participates in and complies with the EDLP Program.
- **"FMC VLP Program" PEPs or JBFs:** Retailer is eligible to earn **"FMC VLP Program"** PEPs and/or JBFs if (i) Retailer participates in and complies with all requirements of this RMPC applicable to the FMC Product Category, and (ii) Retailer participates in and complies with the FMC VLP Program.
- **"Traditional Oral VLP Program" PEPs or JBFs:** Retailer is eligible to earn **"Traditional Oral VLP Program"** PEPs and/or JBFs if (i) Retailer participates in and complies with all requirements of this RMPC applicable to the Traditional Oral Product Category, and (ii) Retailer participates in and complies with the Traditional Oral VLP Program.
- **"Vertical Merchandising Format" PEPs or JBFs:** Retailer is eligible to earn **"Vertical Merchandising Format"** PEPs and/or JBFs for a Product Category under this RMPC, if (i) Retailer participates in and complies with the requirements in this RMPC applicable to such Product Category, (ii) Retailer selects and complies with the requirements of the Vertical Merchandising Format for such Product Category, and (iii), if Retailer is seeking Vertical Merchandising Format PEPs and/or JBFs for the FMC Product Category, Retailer participates in and complies with the EDLP Program or the FMC VLP Program. For the avoidance of doubt, Retailer is not required to participate in and comply with the EDLP Program or the FMC VLP Program in order to be eligible for Vertical Merchandising Format PEPs and/or JBFs for Product Categories other than the FMC Product Category.
- **"Space Plus Merchandising Option" PEPs or JBFs:** Retailer is eligible to earn **"Space Plus Merchandising Option"** PEPs and/or JBFs for a Product Category under this RMPC, if (i) Retailer participates in and complies with the requirements in this RMPC applicable to such Product Category, and (ii) Retailer selects and complies with the requirements of the **"Space Plus"** merchandising option for such Product Category.
 - The **"Space Plus"** merchandising option means: (i) with respect to the FMC and Traditional Oral Product Categories, that Retailer has provided at least an additional, combined two square feet of Featured Space, contiguous with and in excess of the base space requirements set forth above for the FMC and Traditional Oral Products in each of its outlets; and (ii) with respect to the Vapor and NMO Product Categories, that Retailer has provided at least an additional, combined two square feet of Featured Space, contiguous with and in excess of the base space requirements for the Vapor and NMO Products in each of its outlets.

4. GENERAL PROVISIONS (APPLICABLE TO ALL PRODUCT CATEGORIES)

A. RETAILER RIGHTS AND RESPONSIBILITIES

- Retailer must prepare a Payment Reconciliation Request Form ("**PRRF**") if Retailer disputes the amount of any received payment. Retailer must submit the PRRF within 90 days following receipt of the payment in question, or any amounts that RMSC might otherwise have owed in connection with the disputed payment are automatically forfeited. RMSC will deem Retailer to have received a payment on the earlier of the seventh day after RMSC mails payment to Retailer, the day Retailer deposits (or cashes) the payment, or the day an EFT is credited to Retailer's bank account. RMSC will investigate all timely submitted PRRFs. RMSC may request original invoices, detailed sales data, or other information to evaluate the PRRF. Subject to the foregoing, if Retailer has a good faith belief that it is owed a monetary payment under this RMPC or that RMSC has breached the RMPC, Retailer may seek redress through arbitration under the terms stated in the "Arbitration" section of this RMPC. Retailer agrees that seeking a monetary payment that is not owed (including a payment that RMSC is not obligated to pay because of Retailer's breach of, or failure to perform in whole or part any provision or requirement of, this RMPC) constitutes a material breach of this RMPC. Retailer acknowledges that all payment remittance details shall be sent via email to the email address that RMSC has on file for Retailer.
- Retailer agrees that it will not deduct any amounts due under this RMPC, whether under a claim of offset, recoupment, dispute, or otherwise, (i) from amounts owed to RMSC, the Companies, or Retailer's supplier(s) of the Products or (ii) from any retail discounts or other promotional payments that Retailer is required to pass on in full to ANCs.
- Retailer must fully disclose to RMSC any and all persons or entities engaged in the sale or shipment of Competitive Products that Retailer owns in whole or in part, that Retailer operates in whole or in part, with which Retailer is affiliated directly or indirectly (including an affiliation because of common principals) in any way whatsoever, or in which Retailer or its owners holds a financial interest in any way whatsoever. If requested by RMSC, the required disclosure shall also include, without limitation, names and addresses of owners, officers, directors, managers, and shareholders of identified persons or entities and a full description of the nature of that person's or entity's Competitive Products business and its or their relationship to Retailer. Any identified person or entity must participate in an RMSC Retail Marketing Plan if requested by RMSC (and at the same level if requested by RMSC).
- Retailer must immediately notify RMSC in writing of any change in ownership (in whole or part) or control of Retailer's business. Unless consented to in advance by RMSC, this RMPC automatically terminates on any change of ownership or control involving Retailer, or any attempted assignment by Retailer (including any assignment by merger or operation of law).
- Unless expressly exempted from the requirement of arbitration in the Arbitration section of this RMPC, Retailer agrees that if it files litigation about any claim or controversy arising out of or relating to this RMPC, then (i) such filing is a material breach of the RMPC, (ii) Retailer waives and forfeits all claims it asserted or could have asserted against RMSC or its affiliates, and (iii) Retailer waives and forfeits all rights to any payments or damages (of any sort by any name) it claimed or could have claimed in the litigation.

B. RMSC RIGHTS AND RESPONSIBILITIES

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- RMSC may audit Retailer's information and facilities relating to performance under this RMPC and/or payments requested or received by Retailer under this RMPC. Retailer will permit RMSC or its representatives to make audits during Retailer's normal business hours upon reasonable prior notice. Retailer shall cooperate with any such audit, including by making its facilities available for inspection and also by producing, making available and/or copying all supporting invoices, detailed sales data, photographs of retail space, video footage and/or other information that RMSC deems relevant. Retailer will provide accurate and truthful invoices, data, and other information. Retailer also agrees to provide copies of any licenses related to the sale of the Products if requested.
- Retailer grants RMSC the right to obtain information related to the Products and Competitive Products (including but not limited to purchase data, return data, brand data, promotions data, etc.) directly from Retailer's supplier(s). Retailer hereby expressly authorizes its supplier(s) to provide information, and Retailer shall obtain any specific authorizations required by its supplier(s) for RMSC to obtain any such information. For purposes of this provision, "**Retailer**" includes the primary retail location(s) for Retailer and all persons or entities engaged in the sale or shipment of the Products and Competitive Products that Retailer owns in whole or in part, operates in whole or in part, is affiliated with directly or indirectly (including through common ownership or control), or holds a financial interest in any way whatsoever.
- RMSC may from time to time offer price reductions on Products through retail discounting (monthly and/or pulse), off-invoice price reductions through wholesalers, VAP, and/or otherwise. RMSC will determine in its sole discretion the Products on which it offers price reductions, the method of delivering the price reductions, the rates for and durations of the reductions, and the geographic areas which will receive the reductions. RMSC reserves the right to modify or cancel any price reductions at any time.
- Provided that Retailer is in compliance with this RMPC, RMSC shall make payments to reimburse Retailer for retail discounting passed on to ANCs in connection with the purchase of promoted brand styles of the Products from Retailer's physical retail outlet(s).
- RMSC will make payments and/or adjustments to payments based upon the STR data supplied to RMSC through MSAi by Retailer's supplier(s) of the Products as well as any other information RMSC obtains from Retailer or its supplier(s) pursuant to the RMPC.
- RMSC shall make payments to Retailer's owner based upon the information in RMSC's database at the time the payment is made.
- Retailer agrees that RMSC or the Companies may, but are in no way obligated to, recoup, offset, or otherwise reduce or withhold any amounts due under this RMPC or under any other agreement between Retailer and RMSC and/or the Companies in order to satisfy any outstanding amount owed to RMSC or the Companies, including but not limited to amounts paid in error to Retailer under any agreement or amounts not earned by Retailer because of its failure to honor the terms of this RMPC or any other agreement.
- Retailer will cooperate with and assist RMSC if RMSC engages in a recall (mandatory or voluntary) of a Product by (i) identifying any recalled Products that reached its retail outlet(s), segregating such recalled Products from other products, and arranging to return the recalled Products to its wholesale supplier; (ii) providing a full refund of the purchase price to any of Retailer's customers who purchased a recalled Product; and (iii) performing any other reasonable instructions from RMSC concerning the recalled Products.
- RMSC and designated agents of RMSC shall have access to Retailer's outlet(s) to conduct consumer engagements and/or name generation activities with ANCs. If requested by Retailer, Retailer and RMSC will coordinate in good faith to schedule the times when RMSC or its agents will conduct engagements. RMSC may in its discretion choose not to provide retail discounting, VAP, PEPs, JBFs or other payments if Retailer does not routinely allow consumer engagements in its outlet(s).
- Retailer shall not charge or attempt to charge RMSC or any of its affiliates a monetary sum by whatever name (including, but not limited to, vendor or vendor setup fees; purchase, ordering, invoice, or other transaction fees; delivery fees; display or slotting fees; etc.) for purchasing, agreeing to purchase, displaying, selling, or distributing the Products.
- To ensure Retailer's compliance with this RMPC, Retailer authorizes RMSC to relocate any non-RMSC and/or non-Companies items (including Competitive Products, other products, point of sale materials, signs, etc.): (1) from space allocated to, or required for, merchandising of the Products or the placement of point of sale materials or signage for the Products; (2) from the space depicted on a plan-o-gram as being an RMSC location; and/or (3) that obstruct the Products and/or point of sale materials or signs therefor.
- RMSC sometimes hires, and RMSC may utilize and share information with, third parties to manage requirements under this RMPC.

C. LIMITATIONS ON PAYMENTS TO RETAILER AND RIGHTS OF RMSC IF RETAILER FAILS TO FULLY PERFORM

- Payments made to Retailer for retail discounting, PEPs, JBFs and/or under other programs or promotions on specified brand styles of the Products will be limited to no more than 110% for the FMC category and 125% for all other categories of the greater of Retailer's actual monthly volume on the specified brand styles of the Products in either the preceding month or the same time period for the previous year.
- Retailer will not earn, and RMSC will not pay, retail discounting, PEPs, JBFs or any other payments for promotional, sales or marketing activities on Retailer's purchases of Newport cigarettes that exceed 600 Newport cartons (the "**Newport Carton Cap**") that Retailer purchased for and/or sold in an individual outlet during an RMSC discounting week. This will equal 2,400 cartons for a four (4) week RMSC discounting month and 3,000 cartons for a five (5) week RMSC discounting month.
 - If Retailer operates more than one outlet, Retailer may not circumvent the Newport Carton Cap by moving product in any fashion between its outlets. RMSC may (i) determine in its discretion whether a violation of this provision appears to have occurred, and (ii) if RMSC determines that a violation appears to have occurred, RMSC has no obligation to pay any discounting to Retailer or provide to Retailer any retail discounting, PEPs, JBFs or any other payments for promotional, sales or marketing for its purchases of Newport cigarette products.

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- If an RMPC is effective for only a portion of a discounting month, the Newport Carton Cap will be prorated over the period the RMPC is in effect, and the prorated amount will be the maximum quantity on which retail discounting payments for Newport are owed for that discounting month.
- Retailers that participate in the SDRP with a status of validated that exceed the Newport Carton Cap will be reviewed by RMSC for compliance with the Consumer Purchase Limit (described below). If scan data submissions demonstrate compliance with the Consumer Purchase Limit, Retailer may earn discounting, PEPs, JBFs and other applicable payments on Newport volume exceeding the 600 cartons per week, 2,400 cartons for a four (4) week RMSC discounting month and 3,000 cartons for a five (5) week RMSC discounting month, cap up to 1,200 cartons per week, 4,800 cartons for a four (4) week RMSC discounting month and 6,000 cartons for a five (5) week RMSC discounting month. Once validated, retail discounting, PEPs, JBFs or other payments for Newport cartons over the 600-carton cap and up to 1,200 cartons will be released to Retailer. If outlet scan data violates the Consumer Purchase Limit, the outlet will not earn retail discounting, PEPs, JBFs or other payments on Newport exceeding the 600 cartons per week cap. In no event will RMSC pay retail discounting, PEPs, JBFs or any other payments for promotional, sales or marketing activities on Retailer's purchases of Newport cigarettes that exceed 4,800 cartons in a four (4) week month or 6,000 cartons in a five (5) week month.
- Payment of retail discounting, PEPs, JBFs and any other payments for promotional, sales or marketing activities will be made only for the Products sold in accordance with all applicable provisions of the RMPC. Without limiting the previous statement, RMSC retail discounting, PEPs, JBFs and any other payments for promotional, sales or marketing activities are not owed and will not be paid if RMSC determines, in its sole discretion, that: (i) purchases of the Products exceed sales of such products to ANC; (ii) the Products are not sold face-to-face to ANCs for the personal consumption of the purchasing ANCs; (iii) the Products are sold in such volumes or manners that RMSC believes that purchasers of the product are engaged in product resale (whether lawful or unlawful), illicit trade, or other unlawful activities; (iv) the Products are sold to other retail, wholesale, or trade accounts; and/or (v) the Products are sold in violation of the Consumer Purchase Limit.
- RMSC reserves the right to suspend any payments that RMSC determines to be excessive. Payment shall be suspended to allow RMSC the opportunity to investigate the cause of the excessive payment.
- RMSC reserves the right to suspend any payment if the STR data supplied by Retailer's supplier(s) is determined to be inaccurate.
- Retailer shall reimburse RMSC for any overpayment to Retailer due to inaccurate STR data being supplied to RMSC by Retailer's supplier(s) or if RMSC determines that the payment was otherwise inaccurate. RMSC may recoup or otherwise recover overpayments made to Retailer (i) by withholding retail discounting payments, PEPs, JBFs, coupon payments, or any other payments made to Retailer under this RMPC, (ii) by withholding retail discounting payments, PEPs, JBFs, coupon payments, or any other payments made to Retailer under any other contract between RMSC and Retailer, (iii) by non-litigation collection activities, or (iv) through arbitration under the terms stated in the "Arbitration" section this RMPC.
- Retailer agrees that all of its obligations under this RMPC are material, that full performance of all of its obligations under this RMPC is essential, and that RMSC has no obligation to make any monetary payments (for retail discounting payments, PEPs, JBFs, coupon payments, or any other payments) to Retailer if Retailer breaches or in any way fails to perform in whole or part any provision or requirement of this RMPC.
- If Retailer breaches or in any way fails to perform in whole or part any provision or requirement of this RMPC, Retailer shall reimburse RMSC for all monetary payments (for retail discounting payments, PEPs, JBFs, coupon payments, or any other payments) made to Retailer under this RMPC, which in RMSC's sole discretion may be effectuated through deductions from future monetary payments to Retailer under this RMPC or under any other contract between RMSC and Retailer. RMSC may also seek repayment through non-litigation collection activities or arbitration under the terms stated in the "Arbitration" section this RMPC. Retailer specifically represents and agrees that the fact that Retailer may have passed along payments (such as retail discounting payments) to consumers is not a defense to RMSC's right to recoup payments.
- If Retailer breaches or in any way fails to perform in whole or part any provision or requirement of this RMPC, RMSC may in its sole discretion (i) suspend indefinitely any or all payments under this RMPC, (ii) change retail discounting, PEPs, JBFs, or any payment levels applicable to Retailer, and/or (iii) immediately terminate this RMPC and/or any other contract between RMSC and Retailer.
- RMSC's failure to take action at any particular time or to enforce any requirement of this RMPC at any particular time shall not act as a waiver of RMSC's rights hereunder.

D. CONSUMER PURCHASE LIMIT

- Retailer agrees to limit purchases of the Products by not selling more than the amounts set forth below to a single ANC per day (collectively, the **"Consumer Purchase Limit"**):
 - FMC Products: five cartons (50 packs) of FMC Products
 - Traditional Oral Products: Ten rolls/sleeves (50 cans/tins) of Traditional Oral Products, or equivalent amounts for special packaging formats such as big cans
 - Vapor Products:
 - For pod/cartridge/tank-based products: five packages of consumables (i.e., pods, cartridges, and tanks) and two reusable devices.
 - For disposable products: six disposable devices.
 - NMO Products: 50 cans

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- Selling to a single ANC more than the above amounts by processing multiple transactions violates the Consumer Purchase Limit. If Retailer violates the Consumer Purchase Limit, Retailer specifically agrees to cooperate fully to help RMSC to identify the purchasers of such product, and Retailer shall make available for inspection all information that RMSC deems relevant to identifying purchasers.
- Without limitation to any other rights available, RMSC may conduct internal reviews and/or secret shopping programs to identify violations of the Consumer Purchase Limit. In addition, without limitation to any other rights available, RMSC may assess penalties in its sole discretion, up to and including complete or partial termination of this RMPC and/or any or all payments hereunder, if RMSC has reason to suspect that Retailer or its employees or agents are engaged in any systematized, repeated or patterned violations of the Consumer Purchase Limit at any of Retailer's outlets. Retailer also acknowledges that RMSC may report any such behaviors to applicable law enforcement and/or governmental agencies or authorities.

E. COMPLIANCE WITH LAW AND INDEMNIFICATION

- Retailer will not sell, distribute, price, merchandise, advertise, or promote the Products in a fashion that violates federal, state, or local laws, rules, and regulations. Retailer is responsible for understanding and complying with all laws, rules and regulations governing the Products, including laws on the minimum pricing, fair pricing, discounting, promotion and/or advertising of the Products. RMSC representatives will not interpret legal requirements for Retailer or discuss Retailer's compliance with federal, state, or local laws, rules, or regulations.
- Retailer will indemnify and hold harmless RMSC, RAISC, RAI, the Companies and each of its and their parents, subsidiaries and affiliated entities, and their respective officers, directors, employees, and agents (collectively "**Indemnitees**") from and against any and all claims, demands, actions, or liabilities that arise from in whole or part, or may be attributable to in whole or part, Retailer's unlawful sale or distribution of any Products or Competitive Products and/or failure to pay or evasion of any applicable taxes due on the Products or Competitive Products. Retailer's indemnification obligation includes payment of the cost of any settlement or judgment that may be entered against an Indemnitee as a result of any such claim and the payment of all fees and costs in providing for Indemnitee's defense, including the expense of counsel. RMSC has the right to choose counsel that will defend Indemnitees and the right to control such defense or settlement. Retailer's obligation to indemnify and hold harmless will survive the termination of this RMPC.
- Minors should never use the Products, and Retailer will not market, promote or sell the Products to underage persons.
 - Retailer will maintain "We Card" materials at retail intended to aid in the elimination of sales to minors.
 - If Retailer is (or any of its outlet personnel are) convicted of selling the Products or Competitive Products to an underage person, or RMSC otherwise becomes aware of a sale to an underage person (including through RMSC's review of the U.S. Food and Drug Administration's reports of sales to minors on its compliance check inspection website), RMSC may suspend indefinitely any or all payments under this RMPC and/or terminate this RMPC. In addition, if Retailer is (or any of its outlet personnel are) convicted of selling any of the Products to an underage person, or RMSC otherwise becomes aware of a sale of any of the Products to an underage person (including through RMSC's review of the U.S. Food and Drug Administration's reports of sales to minors on its compliance check inspection website), then RMSC shall pursue the following remedies:
 - **First Violation in Last 12 Months:** RMSC shall issue a warning notice to the Retailer that RMSC has identified one of its outlets as selling Products to minors.
 - **Second Violation in Last 12 Months:** RMSC shall issue a second warning notice to the Retailer, and, if applicable, the Retailer's chain headquarters, that RMSC has identified Retailer or one of its outlets as selling Products to minors.
 - **Third Violation in Last 12 Months:** RMSC shall issue a third warning notice to the Retailer, and, if applicable, the Retailer's chain headquarters, that RMSC has identified one of the Retailer's outlets as selling Products to minors, and RMSC shall cease payment of any retail discounting, PEPs, JBFs and other payments to Retailer in respect of that outlet for three (3) months.
 - **Fourth Violation in Last 12 Months:** RMSC shall issue a fourth warning notice to the Retailer, and, if applicable, the Retailer's chain headquarters, that RMSC has identified one of the Retailer's outlets as selling Products to minors, and RMSC shall terminate any retail discounting, PEPs, JBFs and other payments to Retailer in respect of that outlet for a period of at least 12 months.
- Retailer will not buy, sell or trade promoted or discounted product from or with other retailers or wholesalers. Promoted or discounted product must be sold only in a face-to-face transaction with an ANC who is buying product for that ANC's personal consumption.
- RMSC supports compliance with laws prohibiting the sale or shipment of cigarettes directly to consumers through means other than a face-to-face transaction (for example, internet, mail order, facsimile, or telephone sales) at which the seller can check the consumer's identification and age. RMSC will only allocate, sell, ship, and promote Newport, Kent, True, and Old Gold cigarettes in accordance with the 2006 Protocol Regarding Remote Sales Of Lorillard Cigarettes entered between Lorillard Tobacco Company and numerous State Attorneys General.
- By submitting a coupon for reimbursement, Retailer represents that the coupon was presented to Retailer for redemption during the course of an authorized sale of the Products in a face-to-face transaction with an ANC and that, to the best of Retailer's knowledge, the coupon was not sold, given, or otherwise transferred prior to Retailer's acceptance for redemption.
- Retailer will not sell or distribute the Products or Competitive Products not intended for domestic sale, nor will Retailer sell or distribute the Products or Competitive Products intended for the duty-free market. Retailer will not traffic in Products or Competitive Products that are counterfeit.

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- RMSC may suspend indefinitely any or all payments under this RMPC and/or terminate this RMPC if Retailer sells a Product or Competitive Product in a fashion that violates any applicable law, rule, or regulation. RMSC may determine in its discretion whether a violation of applicable law, rule or regulation appears to have occurred.
- For retail outlets operated in the State of New York, including tribal lands located within the boundary surrounding the State of New York, a cigarette excise tax stamp authorized by the New York Department of Taxation & Finance will be affixed to each pack of cigarettes sold by Retailer.
- Retailer acknowledges that RJRT and SFNTC are required to comply with the terms of the Master Settlement Agreement. Retailer agrees not to sell, distribute, merchandise, advertise, or promote RJRT or SFNTC tobacco products in any way that RJRT or SFNTC may not (including but not limited to the posting of any billboard or any exterior cigarette advertisement in excess of 14 square feet) under the Master Settlement Agreement. RMSC may suspend indefinitely any or all payments under this RMPC and/or terminate this RMPC if Retailer violates this provision. RMSC may determine in its discretion whether a violation of this provision appears to have occurred.
- Retailer is aware of and will comply with the BAT Group Responsible Marketing Framework (the "RMF"), as may be amended from time to time, available at <http://www.bat.com/imp>. Retailer agrees not to sell, distribute, merchandise, advertise or promote any of the Products in any way that violates the RMF and/or any other applicable standards of conduct, policies, or procedures that RMSC may communicate to Retailer.
- The operating companies of RAI place all legally required health warning statements on packages of and advertisements for the Products of those operating companies.
- Retailer will cooperate with RMSC in order to ensure that RJRT is able to comply with any final, non-appealable judicial order or directive binding on RJRT and requiring RJRT to install or arrange for the installation of consumer-facing retail signage regarding the health risks posed by, and other attributes of, the Products in *United States v. Philip Morris USA Inc., et al., No. 99-2496 (D.D.C.)*, including by providing adequate space for the installation of such signage and by installing RMSC-provided signage in such space, or allowing reasonable access to RMSC or one of its representatives to install such signage in such space.

F. INDEMNITY REGARDING VUSE VAPOR PRODUCTS AND VELO NMO PRODUCTS

RJRV or MBI (as applicable) will indemnify, defend and hold harmless Retailer and each of its parents, subsidiaries and affiliated entities, and their officers, directors, employees and agents (collectively "**Retailer Indemnitee(s)**") from and against any and all third party claims, demands, actions or liabilities to the extent they are based on alleged adverse health effects or risks from the normal consumption of any Vapor Products under the Vuse brand sold by RJRV (in the case of RJRV as the indemnifying party) or NMO Products under the VELO brand sold by RJRV (in the case of RJRV as the indemnifying party) or MBI (in the case of MBI as the indemnifying party) (the "**Indemnified Products**"), except that in no event will RJRV or MBI have any liability or obligation to indemnify, defend or hold harmless any Retailer Indemnitee in the event (i) any Retailer Indemnitee or a Related Party engaged in any unlawful sale or distribution of the Indemnified Products, (ii) of any negligence or fault attributable to any Retailer Indemnitee or a Related Party, including in connection with improper storage of the Indemnified Products, (iii) Retailer Indemnitee or a Related Party engages in any marketing, advertising or promotion of the Indemnified Products that is not in accordance with this RMPC, violates any federal, state, or local law, or violates other agreements, terms and conditions, or other covenants between the Retailer Indemnitee and RJRV, MBI, RMSC, or any parent, subsidiary, or affiliate thereof, and/or (iv) Retailer Indemnitee or a Related Party otherwise breaches any provision of this RMPC. RJRV and MBI's indemnification obligations include payment of the cost of any settlement or judgment that may be entered against a Retailer Indemnitee as a result of any such claim and the payment of all fees and costs in providing for the Retailer Indemnitee's defense, including the reasonable expense of counsel. RJRV and/or MBI retain the right to choose counsel that will defend the Retailer Indemnitees and the right to control such defense or settlement. RJRV and/or MBI's obligation to indemnify and hold harmless will survive the termination of this RMPC. For the avoidance of doubt, RJRV's and MBI's respective indemnification obligations under this paragraph shall exist and apply only in respect of Indemnified Products actually sold by RJRV and MBI, and neither RJRV nor MBI shall have any indemnification obligations in respect of any Indemnified Products sold by the other party.

G. NOTICES UNDER AND AMENDMENTS TO THE RMPC

- RMSC may amend this RMPC upon ten days' written notice. Neither party shall be required to sign any such amendment. Retailer's continued participation in RMSC's programs at the end of such ten days shall be deemed acceptance of the amendment.
- If at any time RMSC wishes to give notice or otherwise communicate by means other than the Website or email concerning the RMPC or discounting, promotional, or other payment programs or opportunities, RMSC may deliver such notice or other communication in person or by using mail, facsimile, or such other means as RMSC determines. Retailer acknowledges that Retailer's failure to provide and update as necessary valid contact information (e.g., mailing address) may result in Retailer not receiving important information and notices about the RMPC or the availability of discounting, promotional, or other payment programs or opportunities. Retailer waives any and all claims at law or in equity it may have against RMSC that arise out of or relate to Retailer's failure to provide and update as necessary valid contact information.
- All notices and other communications hereunder will be deemed to have been made: (i) if in person, by confirmed facsimile transmission, or by certified or registered mail return receipt requested, when such notice is delivered; (ii) if sent by recognized overnight delivery service, the date after it is sent; (iii) if sent through postage prepaid first class mail, three days after such mail is sent; (iv) if sent through e-mail, when such e-mail is sent; or (v) if posted on the Website, when posted.

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H. MISCELLANEOUS

- RMSC's failure to enforce any requirement of this RMPC shall not act as a waiver of that requirement or as a general waiver.
- If any provision of this RMPC, or the application of any such provision to any person or circumstance, shall be held invalid or unenforceable, the remaining provisions of this RMPC shall not be affected thereby and shall remain binding.
- RMSC and Retailer agree that the terms of this RMPC shall be construed fairly and not in favor of or against either party. The rule of construction to the effect that ambiguities are resolved against the drafting party shall not be employed in the interpretation of this RMPC. The provisions set out under the heading "Background" above form a part of this RMPC and are incorporated by reference herein.
- This RMPC does not create, and is not to be construed to create, an association, partnership, joint venture, relationship of principal and agent, or relationship of employer and employee between RMSC and Retailer within the meaning of any federal, state, or local law.
- Either party can terminate this RMPC, either in whole or in part, without cause upon ten days' notice to the other party. In the event Retailer fails to comply with any requirement of this RMPC, RMSC may terminate the RMPC immediately without prior notice to the Retailer.
- This RMPC sets forth the entire agreement between the parties with regard to the subject matter hereof. The parties have made no oral or implied agreements with respect to the subject matter of this RMPC. This RMPC supersedes any and all previous contracts or agreements regarding the same subject matters; provided, however, that if Retailer previously signed a 2020 Enhanced NGP Supplemental Merchandising Space Agreement and/or a Scan Data Reporting Program Addendum, then such agreements shall continue to survive and shall be deemed to form a part of, and are hereby incorporated by reference into, this RMPC. Retailer represents that it has taken all actions necessary, and is authorized, to enter into this RMPC and that execution of this RMPC will not conflict with, or result in a breach of, any other contract.
- This RMPC may be executed in counterparts that together shall constitute one instrument. Copies of signed counterparts that are faxed or transmitted electronically between the Parties shall be deemed to be originals for purposes of establishing execution by either or both parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this RMPC are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record.
- Retailer agrees that it has read, understands, and shall abide by Appendix F to the Supply Chain Compliance Procedure (SCCP), attached hereto, which is intended to support supply chain controls and prevent illicit trade in the products of the Companies.

I. ARBITRATION**

Retailer and RMSC agree that any claim or controversy arising out of or relating to this RMPC shall be settled by arbitration administered by the American Arbitration Association ("AAA"). Retailer agrees that the requirement of arbitration applies to any claim or controversy arising out of or relating to this RMPC that Retailer has against RMSC, the Companies, any other company owned by RAI, and RAI. **This section of the RMPC, which requires arbitration, does not apply to the following military exchanges: (i) AAFES, (ii) NEXCOM, (iii) MCX, and (iv) CGES.

Retailer and RMSC explicitly agree to the arbitration rules set forth in this section of the RMPC; these rules shall be supplemented by the Commercial Arbitration Rules of AAA. To the extent that a rule set forth in this section and one or more of the Commercial Arbitration Rules of AAA are inconsistent, the rule set forth in this section will govern. The award of the arbitrator shall be final, and judgment on the award rendered may be entered in any court having jurisdiction thereof. The following are the arbitration rules:

Arbitrator:

- Selection: Arbitration shall be conducted and awarded by one arbitrator. The party desiring arbitration shall initiate, at its own expense, a Demand For Arbitration with the AAA and serve the Demand on the opposing party. Within thirty (30) days following the service of the Demand, the Respondent shall propose three arbitrators meeting the qualifications set forth below. If Claimant fails to serve a response to this list within thirty (30) days thereafter (and a failure to follow the procedure set forth in this paragraph shall be deemed a failure to respond), AAA shall pick an arbitrator from the list of three. If the Claimant responds within thirty (30) days, the Claimant shall either (a) select one arbitrator from the three proposed by the Respondent or (b) request that the AAA appoint an arbitrator from its National Roster of arbitrators approved for commercial disputes. If AAA appoints the arbitrator, it shall do so in the manner outlined in the Commercial Arbitration Rules (R-11) with the following additions: (1) all proposed arbitrators must have at least five years of experience as an arbitrator of commercial disputes; (2) the AAA will attempt to propose arbitrators with judicial (ex-judges) experience; and (3) the AAA will attempt to propose arbitrators who are geographically proximate to the locale for the arbitration (which typically will be either Washington, D.C. or Winston-Salem, N.C.). Except for the expense of initiating the arbitration, Claimant and Respondent shall share equally in the fees and expenses of the arbitrator and any fees charged by the AAA.
- Qualifications: The arbitrator must be a licensed attorney with ten (10) years of experience in commercial law practice or a retired judge. Prior to the commencement of hearings, the appointed arbitrator shall provide an oath or undertaking of impartiality.

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- **Judgment:** Upon conclusion of the proceedings, the arbitrator shall render an award within thirty (30) days. The arbitrator shall not prepare a written opinion.

Discovery: Unless mutually agreed by the parties, discovery shall be limited to the following:

- Within sixty (60) days of the appointment of the arbitrator, Claimant and Respondent shall provide to the other:
 - o the identity of each individual that the party intends to call as a witness and a summary of the witnesses' testimony;
 - o a copy of all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment; and
 - o a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 of the Federal Rules of Civil Procedure the documents or other evidentiary material, not privileged, or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.
- There shall be no depositions unless allowed at the discretion of the arbitrator. Discovery from third parties may be allowed at the discretion of the arbitrator and in accordance with applicable law and only upon a showing of special need or hardship. Commanding attendance of third-party witnesses at the hearing shall be in accordance with Federal Arbitration Act.
- Discovery materials shall be treated confidentially by the parties and the arbitrator. The receiving party may use materials produced to it by the disclosing party solely for purposes of the arbitration and not for any other purpose whatsoever. Thirty (30) days following completion of the arbitration, all discovery materials shall be returned to the disclosing party, and the receiving party shall keep no copies.

Location of Arbitration and Choice of Law: Arbitration shall be conducted in Washington, D.C. or Winston-Salem, N.C. Claimant may choose either place (Washington, D.C. or Winston-Salem, N.C.) in its initial Demand; if Claimant does not so choose in its demand, Respondent may choose either place in its response. The parties may agree, during the course of the arbitration, to a different location for the arbitration. Arbitration shall be conducted in person. The arbitrator shall apply the laws of the State of North Carolina (conflict of law rules excluded) to all arbitrated claims.

Remedies: The arbitrator will have no authority to award punitive damages, or any other damages not measured by the prevailing party's actual damages, except as may be required by statute. The arbitrator shall award reasonable attorney's fees to the prevailing party.

Service of Process: The parties agree that service of process in any action shall be sufficient if served by certified mail, return receipt requested, at the receiving party's last address known to the serving party. The address for RMSC is:

Reynolds Marketing Services Company
Attention: Legal and External Affairs Department
Post Office Box 345
Winston-Salem, NC 27102

After counsel appears for a party and the opposing party is aware of the appearance, service shall be on counsel.

Confidentiality: The arbitration hearing shall be confidential. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

**Addendum No. 1
Retailer Obligations in Connection With DOJ Order**

This Addendum No. 1 (this "Addendum"), effective as of May 18, 2023 (the "Amendment Effective Date"), amends and supplements the Reynolds Marketing Services Company ("RMSC") Retail Marketing Plan Contract – 2022 Total Nicotine Plan by and between RMSC and Retailer (such agreement, as amended by this Addendum, the "Agreement"). The parties agree as follows:

For purposes of this Addendum and the Agreement, "Order" means Order #129-Remand, Fourth Superseding Consent Order Implementing Corrective-Statements Remedy at Point of Sale, which is attached hereto and incorporated as Exhibit 1. The Order is also available through engageVIP.com. Any capitalized term used in this Addendum but not defined in this Addendum or in any other provision of the Agreement, has the meaning set forth in the Order.

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Retailer Obligations in Connection With the Order. Notwithstanding any other provision of the Agreement, Retailer will cooperate with RMSC and follow RMSC's instructions in order to ensure that RJRT is able to comply with its obligations under the Order. To that end, Retailer will comply with the obligations set forth below in this Addendum, as such obligations may be further explained and supplemented by RMSC from time to time in one or more Customer Communications.

At all times during the Posting Period and the Implementation Period, and consistent with the requirements of the Order, as such requirements may be further explained by RMSC in one or more Customer Communications, Retailer will:

1. Provide adequate space for the installation of Corrective-Statement Signs and display all provided Corrective-Statement Signs in accordance with the Order. Retailer will allow reasonable access to RMSC, the Manufacturers, or their respective agents and third-party service providers for the installation of such Corrective-Statement Signs. For the avoidance of doubt, after the Corrective-Statement Signs are placed, Retailer will leave each Corrective-Statement Sign in the location in which it was placed by RMSC, the Manufacturers, or their respective agents and third-party service providers for the duration of the Implementation Period through June 30, 2025.
 - a. The specific number of Corrective-Statement Signs to be installed in each Participating Retailer Location is dependent on whether (i) the Participating Retailer Location is a Kiosk Store or a Non-Kiosk Store; (ii) the Participating Retailer Location has Merchandising Set(s) containing a total of more than 9-horizontal linear feet of visible merchandising space devoted to Covered Brands; and (iii) the Participating Retailer Location displays Off-Set Promotional Signage.
 - b. Non-Kiosk Stores.
 - i. Each Non-Kiosk Store must display at least one 348 square inch Corrective-Statement Sign pursuant to the following sign placement hierarchy:
 1. The Corrective-Statement Sign will be (i) attached to and above, or hung above, the main Merchandising Set, as determined by RMSC, the Manufacturers, or their respective agents and third party service providers with a space of not more than 6" between the top of the main Merchandising Set and the bottom edge of the sign; and (ii) in the same plane as the front of the Merchandising Set unless the configuration of the Merchandising Set and sign attachment or hanging hardware or ceiling attachment point does not allow the Corrective-Statement Sign to be affixed in the same plane as the front of the Merchandising Set and, in such a case, the sign will be affixed vertically but offset from the front plane of the Merchandising Set;
 2. If 1. is not possible given the existing placement of the Merchandising Set, then the Corrective-Statement Sign will be (i) attached and adjacent, or hung adjacent, to the main Merchandising Set with a space of not more than 6" between the side of the main Merchandising Set and the side edge of the sign; (ii) in the same plane as the front of the Merchandising Set, unless the configuration of the Merchandising Set and sign attachment hardware or ceiling attachment point does not allow the sign to be affixed in the same plane as the front of the Merchandising Set and, in such a case, the sign will be affixed vertically but offset from the front plane of the Merchandising Set; and (iii) at least 48" above the floor;
 3. If 2. is not possible given the existing placement of the Merchandising Set, then the Corrective-Statement Sign will be placed in a highly visible location either (i) within 48" of the main customer entrance, that can be seen by customers as they enter the store, and at least 48" above the floor, or (ii) within 48" of the cash register, that can be seen by customers as they approach or are standing at the cash register/point of sale, and at least 48" above the floor;
 4. If 3. is not possible given the existing placement of the Merchandising Set, then the Corrective-Statement Sign will be placed (i) perpendicular to the main Merchandising Set,

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at least 48" above the floor, or (ii) on a wall in front of a recessed main Merchandising Set but in a plane parallel to the front of the Merchandising Set, and at least 48" above the floor; or

5. If none of the above placement positions are possible, then the Corrective-Statement Sign will be placed in a location specified by the Manufacturers.
 - ii. Each Non-Kiosk Store that has more than 9-horizontal linear feet of visible Merchandising Set space devoted to Covered Brands, will display two 348 square inch Corrective-Statement Signs.
 - iii. Each Non-Kiosk Store that displays certain promotional signs off the main Merchandising Set, will display one 144 square inch Off-Set Corrective Statement Sign.
 - c. Each Kiosk Store will display one 144 square inch Corrective-Statement Sign (i) near the selling window, in a highly visible location that can be seen by customers as they approach or are standing at the selling window, or (ii) if the Kiosk Store does not have a selling window, then the sign will be installed in a highly visible location, that can be seen by customers as they approach or are standing at the cash register/point of sale or in another location identified by RMSC, the Manufacturers, or their respective agents and third party service providers.
2. Cooperate with and facilitate Photo Audits, In-Person Audits, and rotation of Corrective-Statement Signs:
 - a. During the Posting Period and Rotation Period, Retailer will allow photos to be taken of (i) the main Merchandising Set, (ii) all Corrective-Statement Signs installed in any Participating Retailer Location, and (iii) an example of Off-Set Promotional Signage for Covered Brands, if any, in as many images as are sufficient to show compliance with the Order.
 - b. Retailer acknowledges that: (i) audits will be conducted of compliance with the Order; (ii) in connection with these audits, an Auditor may visit any Participating Retailer Location one or more times to conduct an In-Person Audit; and (iii) each Participating Retailer Location will refrain from interfering with the In-Person Audit.
 - c. During an In-Person Audit Retailer will allow the Auditor to photograph (i) the main Merchandising Set, (ii) any displayed Corrective-Statement Signs, and (iii) an example of Off-Set Promotional Signage for Covered Brands displayed by the Participating Retailer Location, if any, in as many images as are sufficient to show compliance with the Order or to adequately document noncompliance with the Order.
 - d. Retailer will cooperate with RMSC, the Manufacturers, or their respective agents and third-party service providers for the rotation of the Corrective-Statement Signs, which will occur between July 1, 2024, and September 30, 2024.
 3. Subject to the appeal process described in Section V.7 of the Order, Retailer acknowledges and agrees that it will be subject to, and that RMSC will have the right to impose on Retailer, the remedies described in Part VI (Result of Audit) of the Order, as further explained or supplemented from time to time in writing by RMSC. Examples of Major and Minor Noncompliance are included in Exhibit 1.a
 - a. The consequences of a determination of Minor Noncompliance following an In-Person Audit are:
 - i. Upon a first determination of an incidence of Minor Noncompliance, the noncompliant Participating Retailer Location will be counseled into compliance by the Manufacturers.
 - ii. Upon a second determination of an incidence of Minor Noncompliance, the noncompliant Participating Retailer Location will be counseled into compliance by the Manufacturers and receive a warning letter from the Auditor that the third finding of Minor Noncompliance will result in the requirement to post an additional 144 square inch Corrective-Statement Sign for 120 days.

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- iii. Upon a third determination of an incidence of Minor Noncompliance, the noncompliant Participating Retailer Location will be counseled into compliance by the Manufacturers and will be required to post an additional 144 square inch Corrective-Statement Sign for 120 days.
- b. The consequences of a determination of Major Noncompliance following an In-Person Audit are:
 - i. Upon a first determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location will be (i) counseled into compliance by the Manufacturers and (ii) required to post an additional 144 square inch Corrective-Statement Sign for the remainder of the Implementation Period through June 30, 2025.
 - ii. Upon a second determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location will (i) be counseled into compliance by the Manufacturers and (ii) owe to each Manufacturer with which it is contracted a payment equal to any price promotion payment owed to the Participating Retailer Location by such Manufacturer for a period of 4 weeks.
 - iii. Upon the third determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location will (i) be counseled into compliance by the Manufacturers and (ii) owe to each Manufacturer with which it is contracted, a payment equal to any price promotion payment owed to the Participating Retailer Location by such Manufacturer for a period of 13 weeks.
 - iv. Upon a fourth determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location will (i) be counseled into compliance by the Manufacturers and (ii) be suspended for 17 weeks from the Participating Retailer Contracts of each Manufacturer with which it is contracted starting 45 days after the determination of Major Noncompliance.

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Exhibit 1:

**2022.12#129-REMAND – Fourth Superseding Consent Order Implementing the Corrective-
Statements Remedy at POS (003) (12/16/22)**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Plaintiff,

and

TOBACCO-FREE KIDS
ACTION FUND, *et al.*
Plaintiff-Intervenors,

v.

PHILIP MORRIS USA INC., *et al.*,

Defendants,

and

ITG BRANDS, LLC, *et al.*
Post-Judgment Parties Regarding
Remedies.

Civil Action No. 99-CV-2496 (PLF)
Next scheduled court appearance:
None

ORDER # 129-Remand

FOURTH SUPERSEDING CONSENT ORDER IMPLEMENTING THE
CORRECTIVE-STATEMENTS REMEDY AT POINT OF SALE

Upon consideration of the Joint Motion for Fourth Superseding Consent Order Implementing the Corrective-Statements Remedy at Point of Sale, the entire record herein, and following extensive negotiations among the parties to this action, including the United States of America as well as the non-party Retailer Groups, it is hereby ORDERED that:

The corrective-statements remedy under Order #1015 (Dkt. No. 5733; issued Aug. 17, 2006), published as *United States v. Philip Morris USA Inc.*, 449 F. Supp. 2d 1, 938-41 (D.D.C.

2006), *aff'd in part & vacated in part*, 566 F.3d 1095 (D.C. Cir. 2009) (*per curiam*), *cert. denied*, 561 U.S. 1025 (2010), is hereby MODIFIED as set forth below:

**REVISED IMPLEMENTATION SPECIFICATIONS FOR CORRECTIVE
STATEMENTS AT POINT OF SALE**

I. Definitions.

- A. “Acquired Brands” means the Winston, Salem, Kool, and Maverick brands.
- B. “Adjudicator” means a third-party engaged to expeditiously hear appeals from (i) Working Group decisions on Noncompliance Appeals in the circumstances provided in Section V.7, below; and (ii) tie breaking decisions of the Mediator. The Adjudicator’s costs and fees shall be paid for by Manufacturers.
- C. “Audit Period” means a nineteen-week period during which In-Person Audits take place.
- D. “Auditor” means one or more firms unaffiliated with and independent of any Manufacturer and acceptable to Plaintiffs that are retained by a Manufacturer or the Manufacturers to conduct In-Person Audits, review the Photo Database, administer the Tip Line, address and monitor audit results, and report on the same to the Working Group as required by this Order, either itself or through one or more subcontracts.
- E. “Corrective-Statement Signs” means signs to be displayed in Participating Retailer Locations as provided in this Order and designed in accordance with the Style Guide attached hereto as Exhibit A, with the image files used for printing signs provided by the Government.
- F. “Court-Ordered Corrective Statements” means the messages prescribed by Order #72-Remand.

G. “Covered Brand” means any brand of cigarette marketed by a Defendant and any Acquired Brand.

H. “Defendant” means each of the following: Altria Group, Inc., R.J. Reynolds Tobacco Company, Lorillard Tobacco Company, and Philip Morris USA Inc. To the extent any obligations under this Order pertaining to Lorillard Tobacco Company have been transferred to R.J. Reynolds Tobacco Company, as contemplated by the Notice of Transaction Involving Defendants R.J. Reynolds Tobacco Company and Lorillard Tobacco Company (Dkt. No. 6141; filed Apr. 7, 2015), such obligations shall apply to R.J. Reynolds Tobacco Company.

I. “Effective Date” means the date on which this Order is entered.

J. “Final Determination of Noncompliance” means a determination that a Participating Retailer Location is out of compliance with the Participating Retailer’s contractual obligations to Manufacturers under this Order after (i) the timelines for contesting an In-Person Noncompliance Notice have expired without the filing of a timely Noncompliance Appeal, (ii) if a Noncompliance Appeal is timely filed, the Working Group has affirmed the Auditor’s findings of noncompliance and no appeal is permitted, or the timelines for contesting that determination have expired, or (iii) the Adjudicator affirmed the Auditor’s findings of noncompliance and no appeal is permitted, or the timelines for contesting that determination have expired.

K. “Implementation Period” means the twenty-one month period beginning on the first day of the first month following the Posting Period.

L. “In-person Audit” means a visit to a Participating Retailer Location by the Auditor during which the Auditor shall photograph (i) the main cigarette Merchandising Set, (ii) any displayed Corrective-Statement Signs, and (iii) an example of Off-Set Promotional Signage for

Covered Brands displayed by the Participating Retailer Location, if any, in as many images as are sufficient to show compliance with this Order or to adequately document noncompliance with this Order.

M. “In-person Noncompliance Notice” means a letter issued by the Auditor notifying the Participating Retailer Location and the Working Group that the Auditor conducted an In-person Audit of the Participating Retailer Location and found the Participating Retailer Location not compliant with the terms of this Order, and specifically identifying the basis for the Auditor’s finding of noncompliance, as well as whether the Auditor deemed the Participating Retailer Location to be in Major Noncompliance or Minor Noncompliance. The In-person Noncompliance Notice shall be sent to the Participating Retailer Location at the email address provided for notice in the Participating Retailer Contract, and shall also be sent to each member of the Working Group by email. If no email address is available and/or the sender receives a bounce-back or failed delivery message, the In-person Noncompliance Notice shall be sent via overnight delivery.

N. “Kiosk Store” means (1) a Store that does not allow customers to enter and that has a selling window in front of one or more selling counters between the customer and Store personnel, or (2) a Store that is no more than 325 square feet in area, not including restrooms, regardless of whether customers are allowed to enter the Store.

O. “Major Noncompliance” means a failure to post a required Corrective-Statement Sign, or an obstruction of a Corrective-Statement Sign in a manner that results in the Preamble, message, or icon not being visible from the customer’s vantage point, including, but not limited to, the examples given in Exhibit B.

P. “Major Noncompliance Notice” means an In-person Noncompliance Notice that identifies the noncompliance with the terms of this Order to be Major Noncompliance.

Q. “Manufacturer” means a Defendant or ITG Brands, LLC.

R. “Mediator” means a third-party engaged to assist in expeditiously resolving disputes of the Working Group and to cast a tie breaking vote in the event of a tie of the Working Group. The Mediator’s costs and fees shall be paid for by Manufacturers.

S. “Merchandising Set” means any rack, shelving, display, or fixture at a Store, including any canopy or header, used in whole or in part to merchandise one or more Covered Brands of cigarettes that are visible to customers.

T. “Minor Noncompliance” means noncompliance with this Order’s provisions for the Corrective-Statement Sign other than Major Noncompliance, and is defined to include, but is not limited to, the examples given in Exhibit B.

U. “Minor Noncompliance Notice” means an In-person Noncompliance Notice that identifies the noncompliance with the terms of this Order to be Minor Noncompliance.

V. “Noncompliance Appeal” means a written appeal by a Participating Retailer Location or Working Group member to the Working Group, submitted by email within 14 days after the In-Person Noncompliance Notice is sent by the Auditor, setting forth the basis for challenging the Auditor’s finding. A Noncompliance Appeal may accept the finding of noncompliance, but challenge whether the noncompliance constitutes Major Noncompliance. A Noncompliance Appeal may include supporting evidence, which may include photos.

W. “Non-Kiosk Store” means a Store other than a Kiosk Store.

X. “Off-Set Corrective-Statement Sign” means a Corrective-Statement Sign required because of Off-Set Promotional Signage.

Y. “Off-Set Promotional Signage” means Promotional Signage that is not placed within the four corners of the Merchandising Set, which for the avoidance of doubt, includes any canopy or header.

Z. “Participating Retailer” means a retailer that is a party to a Participating Retailer Contract.

AA. “Participating Retailer Contract” means a contract with a retailer that permits the Manufacturer (i) to choose the placement of Covered Brands of cigarettes in or on a Merchandising Set related to Covered Brands or (ii) to approve, place, remove, or require the placement or removal of advertising, marketing, promotional or other informational material that advertises, markets, or promotes its Covered Brands in a Store.

BB. “Participating Retailer Location” means a Store with respect to which a Manufacturer has a Participating Retailer Contract.

CC. “Plaintiffs” means the United States and the Public Health Intervenors.

DD. “Photo Database” means the database maintained and reviewed by the Auditor to which Manufacturer representatives will and Participating Retailers can submit photos of Corrective-Statement Signs as posted in a Participating Retailer Location.

EE. “Photo Noncompliance Notice” means a written letter issued by the Auditor notifying the Participating Retailer Location that the photo submitted of its Participating Retailer Location suggests noncompliance with the terms of this Order.

FF. “POS Corrective Statements” means a modified version of the Court Ordered Corrective Statements using the POS Preamble and dividing the Court Ordered Corrective Statements among 17 distinct messages as reprinted in attached Exhibit A at p. 9.

GG. “POS Preamble” means a modified version of the sourcing language from the Court-Ordered Corrective Statements. In approximately one-half of the Corrective-Statement Signs the shortened preamble text will read “A FEDERAL COURT HAS ORDERED R.J. REYNOLDS TOBACCO & PHILIP MORRIS USA TO STATE:” and in approximately one-half of the Corrective-Statement Signs the shortened preamble text will read “A FEDERAL COURT HAS ORDERED PHILIP MORRIS USA & R.J. REYNOLDS TOBACCO TO STATE:”.

HH. “Posting Period” means the three-month period beginning on the first day of the first month following the Ramp-Up Period.

II. “Price Promotion” means any Manufacturer-provided discount on the price of cigarettes that the Participating Retailer must apply to reduce the retail price of cigarettes (*e.g.*, a Manufacturer pays a Participating Retailer an amount equal to \$0.50 per pack of cigarettes to reduce the price of specific Covered Brands of cigarettes by \$0.50 per pack of cigarettes).

JJ. “Promotional Signage” means material displayed at a Participating Retailer Location that advertises, markets, or promotes one or more Covered Brands, but does not include the products themselves or signage that solely identifies brand and price (without using an advertising slogan, tagline, or imagery other than a brand logo or image of a branded cigarette package).

KK. “Public Health Intervenors” means the Tobacco-Free Kids Action Fund, American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers’ Rights, and the National African American Tobacco Prevention Network.

LL. “Qualifying Census Tract” means a U.S. Census tract where (a) twenty percent (20%) or more of the total population of the U.S. Census tract is of Hispanic origin, and (b) twenty percent (20%) or more of the population of Hispanic origin in that U.S. Census tract speaks a language other than English at home and speaks English less than “very well.” U.S. Census tracts shall be determined using the most recent available five-year estimates from the American Community Survey that have been released by the United States Census Bureau as of the Effective Date.

MM. “Ramp-Up Period” means the six-month period beginning on the first day of the first month following the Effective Date.

NN. “Remedies Party” means each of the following: ITG Brands, LLC, Commonwealth Brands, Inc., and Commonwealth-Altadis, Inc.

OO. “Representative Sample” means a sample of Participating Retailer Locations selected using the following method:

1. Sort a list of all Participating Retailer Locations according to the following strata:
 - a. According to the Participating Retailer Location’s presence in one of the four United States Census Regions or its presence in any United States Territory taken as a fifth group;

b. Then within each of those strata, by the volume of Covered Brands of cigarettes shipped to the Participating Retailer Location in the previous 12 months, from most to least.

2. Then draw a sample of 6,000 from the sorted list of Participating Retailer Locations in 19 distinct replicates, as follows:

a. Calculate a sampling interval (SI) using the formula $SI = (19 \times N') / 6,000$ (rounding SI if necessary down to the next integer), where N' is the total number of Participating Retailer Locations in the sorted list;

b. Draw 19 unique random numbers from the interval inclusive of 1 to SI;

c. Create 19 sets of numbers (seeded sets) by using each of the 19 unique random numbers as a seed (S), as follows: $\{ S, S + SI, S + 2 \times SI, S + 3 \times SI, \dots S + i \times SI \}$, where i is 315 [[i.e., $(6,000/19) - 1$]]; and

d. Create 19 distinct replicates by using the 19 seeded sets to draw from the sorted list the Participating Retailer Locations at the positions corresponding to the numbers in the set.

PP. “Representative Sample Noncompliance Rate” means the noncompliance rate of the Representative Sample calculated as follows:

$$\frac{\sum_{i=1}^{Total \text{ Sampled retailers}} Retailer_NC_i \times Retailer_sales_i}{\sum_{i=1}^{Total \text{ Sampled retailers}} Retailer_sales_i}$$

This calculation uses the below definitions:

- “Sales” means volume of Covered Brands of cigarettes shipped to the Participating Retailer Location in last 12 months.
- “i” shall be used to denote 1 to the total number of sampled Participating Retailer Location.
- “Retailer_sales_i” equals sales for each sampled Participating Retailer Location “i”
- “Retailer_NCi” equals (i) 1 if the Participating Retailer Location is found to have one or more incidences of Major Noncompliance or (ii) 0 if Participating Retailer Location is found to have no incidences of Major Noncompliance.

QQ. “Representative Sample Pool” means an audit pool that includes all Participating Retailer Locations nationwide, including those in the Suspected Noncompliance Pool.

RR. “Retailer Groups” means the National Association of Convenience Stores (“NACS”) and the National Association of Tobacco Outlets (“NATO”).

SS. “Rotation Period” means the three-month window comprising months 10, 11, and 12 of the 21-month Implementation Period, after the first two Audit Periods and before the final two Audit Periods.

TT. “Semi-Permanent Display” means an advertising, marketing, or promotional display that requires specialized labor or more expense to install or remove than does a standard Promotional Signage.

UU. “Set-Adjacent Corrective-Statement Sign” means a Corrective-Statement Sign posted because of the presence of a Merchandising Set at a Participating Retailer Location.

VV. “Spanish Version” means the text of the Corrective-Statement Signs translated into Spanish, as set forth in the Style Guide attached to this Order as Exhibit A.

WW. “Store” means a premises where cigarettes are offered for sale to consumers.

XX. “Suspected Noncompliance Pool” means an audit pool consisting of Participating Retailer Locations (a) for which no photo showing compliance has been submitted (to be included in this pool in only the first Audit Period and third Audit Period), (b) that have been flagged as suspected of noncompliance by the Tip Line and not previously been audited based on the Tip Line communication that triggered its inclusion in the Suspected Noncompliance Pool, or (c) that were found in Major Noncompliance via In-Person Audit in the immediately prior Audit Period.

YY. “Tip Line” means a system designed to accept telephonic and online submissions from members of the public concerning incidences of suspected noncompliance with this Order for review by the Auditor.

ZZ. “Working Group” means a group consisting of ten individuals: three individuals appointed by the Department of Justice, two individuals appointed by the Public Health Intervenor, one individual appointed by each of (i) Altria Group, Inc., or Philip Morris USA Inc. (ii) R.J. Reynolds Tobacco Company and (iii) ITG Brands, LLC, and one individual appointed by each of the two Retailer Groups.

II. Display of Corrective-Statement Signs.

1. At each Participating Retailer Location, the Manufacturers shall, during the Implementation Period, communicate the POS Corrective Statements to customers through Corrective-Statement Signs to be displayed in the sizes and locations and on the terms described in Section III, below.

2. The Corrective-Statement Signs displayed in Participating Retailer Locations shall use the POS Preamble and follow the Style Guide attached to this Order as Exhibit A.

3. The Manufacturers shall communicate a Spanish Version of the Corrective-Statements Sign following the Style Guide attached as Exhibit A in each Participating Retailer Location that (i) requires two or more Corrective-Statement Signs under the terms of Section III, below and (ii) is located in a Qualifying Census Tract that Plaintiffs have identified and disclosed to the Manufacturers, the Retailer Groups, and the Auditor within 60 days of the Effective Date. In such Participating Retailer Locations, the Set-Adjacent Corrective-Statement Sign shall be in English and any second Corrective-Statement Sign shall be in Spanish. If a Participating Retailer Location must display more than two signs, the additional sign(s) beyond the first two shall be in English and the Participating Retailer Location may choose which sign to display in Spanish. Where there are two signs in a Participating Retailer Location in Puerto Rico, the Set-Adjacent Corrective-Statement Sign shall be in Spanish and any second Corrective-Statement Sign shall be in English and, if a Participating Retailer Location in Puerto Rico must display more than two signs, the additional sign(s) shall be in Spanish and the Participating Retailer Location may choose which sign to display in English.

III. Set-Adjacent and Off-Set Corrective-Statement Signs.

1. During the Ramp-Up Period, each Manufacturer shall amend or supplement its Participating Retailer Contracts to require, during the Implementation Period, display of a Set-Adjacent Corrective-Statement Sign for Non-Kiosk Stores from one of the Manufacturers as follows:

a. A single 348 sq. in. Corrective-Statement Sign shall be displayed in one of the following locations:

i. The sign shall be: (1) attached to and above, or hung above, the main cigarette Merchandising Set with a space of not more than 6" between the top of the main Merchandising Set and the bottom edge of the sign; and (2) in the same plane as the front of the Merchandising Set unless the configuration of the Merchandising Set and sign attachment or hanging hardware or ceiling attachment point does not allow the sign to be affixed in the same plane as the front of the Merchandising Set and, in such a case, the sign shall be affixed vertically but offset from the front plane of the Merchandising Set;

ii. If (i) is not possible given the existing placement of the Merchandising Set within a Participating Retailer Location, then the sign shall be (1) attached and adjacent, or hung adjacent, to the main cigarette Merchandising Set with a space of not more than 6" between the side of the main Merchandising Set and the side edge of the sign; (2) in the same plane as the front of the Merchandising Set unless the configuration of the Merchandising Set and sign attachment hardware or ceiling attachment point does not allow the sign to be affixed in the same plane as the front of the Merchandising Set and, in such a case, the sign shall be affixed vertically but offset from the front plane of the Merchandising Set; and (3) at least 48" above the floor;

iii. If (i) or (ii) are not possible given the existing placement of the Merchandising Set within a Participating Retailer Location, then in a highly visible

location either (a) within 48" of the main customer entrance, that can be seen by customers as they enter the store, and at least 48" above the floor, or (b) within 48" of the cash register, that can be seen by customers as they approach or are standing at the cash register/point of sale, and at least 48" above the floor, with the choice between (a) and (b) at the Participating Retailer Location's discretion;

iv. If (i), (ii), and (iii) are not possible, then (a) perpendicular to the main cigarette Merchandising Set, at least 48" above the floor, or (b) on a wall in front of a recessed main cigarette Merchandising Set but in a plane parallel to the front of the Merchandising Set, and at least 48" above the floor, with the choice between (a) and (b) at the Participating Retailer Location's discretion; and

v. If (i), (ii), (iii) and (iv) are not possible, then the retailer may request the Working Group for permission to use an alternative placement.

b. In addition, Non-Kiosk Stores with more than 9-horizontal linear feet of visible Merchandising Set space devoted to Covered Brands (which Manufacturers have represented as being approximately 10% of all Participating Retailer Locations), at any given time during the Implementation Period, shall post a second 348 sq. in. Set-Adjacent Corrective-Statement Sign, with placement following the hierarchy of Paragraph a, above, recognizing that it may not be possible to place a second Set-Adjacent Corrective Statement Sign in the same placement as the first Set-Adjacent Corrective Statement Sign.

2. During the Ramp-Up Period each Manufacturer shall amend or supplement its Participating Retailer Contracts to require Non-Kiosk Stores displaying Off-Set Promotional Signage to display during the Implementation Period, in addition to any required Set-Adjacent

Corrective-Statement Signs, a single 144 sq. in. Off-Set Corrective-Statement Sign from one of the Manufacturers placed in a highly visible location within 48" of the main customer entrance of the Store, that can be seen by customers as they enter the store, and at least 48" above the floor. Plaintiffs acknowledge Manufacturers' Participating Retailer Contracts do not require Participating Retailer Locations to place Off-Set Promotional Signage. A Participating Retailer Location is not subject to the contractual requirement to place an Off-Set Corrective-Statement Sign if it does not choose to display Off-Set Promotional Signage.

3. The Manufacturers represent that some Participating Retailer Locations have expended costs for existing Semi-Permanent Displays that feature brand imagery. Any Participating Retailer Location that has such a semi-permanent display that would not otherwise be required to display an Off-Set Corrective Statement Sign may seek an exemption from the requirements of Section III.2 from the Working Group. The Working Group shall grant an exemption if it determines that (1) but for the semi-permanent display an Off-Set Corrective Statement Sign would not be required in the Participating Retailer Location, and (2) it would be unreasonable to expect the Participating Retailer Location to remove the semi-permanent display. The request may be accompanied by evidence in addition to any statement that demonstrates these points.

4. During the Ramp-Up Period each Manufacturer shall amend or supplement its Participating Retailer Contracts to require Kiosk Stores to post during the Implementation Period a single 144 sq. in. Corrective-Statement Sign near the selling window, highly visible to the customer, and that can be seen by customers as they approach or are standing at the selling window. Placement of this Corrective-Statement Sign as a Set-Adjacent Corrective-Statement Sign will not

satisfy this requirement. If a Kiosk Store does not have a selling window, then the Corrective-Statement Sign shall be placed in a highly visible location, that can be seen by customers as they approach or are standing at the cash register/point of sale, or in a location approved by the Working Group prior to the start of the Implementation Period.

5. The Manufacturers represent that the forms of Participating Retailer Contracts most recently provided to the Plaintiffs on March 30, 2022 and June 17, 2022 remain in use and will not be amended or supplemented before the Implementation Period begins to diminish the Manufacturer's rights to (i) require Corrective-Statement Signs and noncompliance remedies in accordance with this Order or (ii) require any Participating Retailer Location to cooperate with In-Person Audits. During the Implementation Period, all Participating Retailer Contracts shall contain the provisions required by this Consent Order that (i) require Corrective-Statement Signs and noncompliance remedies in accordance with this Order, and (ii) require any Participating Retailer Location to cooperate with In-Person Audits, and the Manufacturers shall terminate any Participating Retailer Contract as to which a Participating Retailer refuses to accept such provisions.

6. Within 14 days of the Effective Date, each Manufacturer shall provide Plaintiffs with all of its then-current Participating Retailer Contract forms. Thereafter, until the end of the Implementation Period, any time a Manufacturer revises any Participating Retailer Contract form or establishes a new form, the Manufacturer shall provide Plaintiffs with a copy of that Participating Retailer Contract form no later than the first day such new or revised form takes effect.

IV. Implementation Timeline and Signage Rotation.

1. During the Ramp-Up Period, the Manufacturers shall print an equal number of each of the 17 distinct POS Corrective Statements and begin to distribute Corrective-Statement Signs to Participating Retailer Locations. The Manufacturers shall not distribute the Corrective-Statement Signs in a manner that results in the concentration of any particular POS Corrective Statement in any geographic region, chain of stores, or type of Participating Retailer Location. The Manufacturers shall ensure that each Participating Retailer Location is provided with each Corrective-Statement Sign(s) that it must display in order to comply with its contract and that no Participating Retailer Location receives duplicate Corrective-Statement Sign(s).

2. Manufacturers shall provide appropriate training to their representatives who visit Participating Retailer Locations, covering the existence and provisions of this Order. Manufacturer representatives shall assist Participating Retailer Locations they visit in properly displaying required Corrective-Statement Signs.

3. When a Corrective-Statement Sign is placed by a Manufacturer representative, the Manufacturer representative shall submit photos to the Photo Database of (i) the main cigarette Merchandising Set, (ii) any displayed Corrective-Statement Signs, and (iii) an example of Off-Set Promotional Signage for Covered Brands displayed by the Participating Retailer Location, if any, in as many images as are sufficient to show compliance with this Order.

4. For those Participating Retailer Locations that a Manufacturer representative does not visit during the Posting Period, the Manufacturers shall mail or otherwise deliver required Corrective-Statement Signs to the Participating Retailer Location for posting. Upon posting the required Corrective-Statement Sign(s) during the Posting Period, a Participating Retailer Location

not visited by Manufacturer representatives may, but shall not be required to, submit a photo of the as-posted Corrective-Statement Sign(s) to the Photo Database.

5. During the Rotation Period, each Corrective-Statement Sign required to be posted in a Participating Retailer Location shall be replaced with another Corrective-Statement Sign bearing a different POS Corrective Statement than any POS Corrective Statement previously displayed in that Participating Retailer Location. The Manufacturers shall not distribute the Corrective-Statement Signs in a manner that results in the concentration of any one POS Corrective Statement in any geographic region, chain of stores, or type of Participating Retailer Location. The Manufacturers shall ensure that each Participating Retailer Location is provided with each Corrective-Statement Sign(s) that it must display in order to comply with its contract.

a. When a Corrective-Statement Sign is rotated by a Manufacturer representative, the Manufacturer representative shall submit photos to the Photo Database of (i) the main cigarette Merchandising Set, (ii) any displayed Corrective-Statement Signs, and (iii) an example of Off-Set Promotional Signage for Covered Brands displayed by the Participating Retailer Location, if any, in as many images as are sufficient to show compliance with this Order.

b. For those Participating Retailer Locations that a Manufacturer representative does not visit during the Rotation Period, a Participating Retailer Location, upon posting the required replacement Corrective-Statement Sign(s), may, but shall not be required to, submit a photo of the new as-posted Corrective-Statement Sign(s) to the Photo Database.

6. Any time that a Manufacturer representative visits a Participating Retailer Location and determines that the location is not in compliance with the terms of this Order, the representative shall counsel that Participating Retailer Location into compliance.

V. Audits of Manufacturer Compliance.

1. The Manufacturers shall contract at their own expense with an Auditor to conduct audits of compliance with this Order in a manner consistent with the audit specifications set forth below.

2. Prior to the start of the Implementation Period, each Manufacturer shall amend or supplement its Participating Retailer Contracts to notify Participating Retailers that: (a) audits will be conducted of compliance with this Order; (b) in connection with these audits, an Auditor may visit the Participating Retailer Location one or more times to conduct an In-Person Audit; and (c) the Participating Retailer Location has a contractual obligation to the Manufacturer to refrain from interfering with the In-Person Audit.

3. During the Implementation Period, there shall be four Audit Periods. Two Audit Periods shall occur before the Rotation Period, and two Audit Periods shall occur after the Rotation Period. No In-Person Audits shall occur during the Rotation Period. At the beginning of each Audit Period, each Manufacturer shall provide a list of all Participating Retailer Locations to the Auditor and shall provide copies of its list to Plaintiffs. The list shall specify which Participating Retailer Locations are Kiosk Stores and, for all Participating Retailer Locations shall provide the name, address, number of signs provided, and a unique identifier. The list shall also specify which Participating Retailer Locations are Non-Kiosk Stores with more than 9-horizontal linear feet of visible Merchandising Set space devoted to Covered Brands.

4. Photo Audits.

a. The Auditor shall review photos submitted to the Photo Database during the Posting Period and the Rotation Period on a rolling basis, and within 14 days of the submission of a photo that suggests noncompliance with this Order, issue a Photo Noncompliance Notice to the Participating Retailer Location and the Working Group detailing the basis for such suspected noncompliance, and whether such noncompliance, if confirmed through an In-Person Audit, would be Major Noncompliance or Minor Noncompliance.

b. For a period of 30 days following the issuance of a Photo Noncompliance Notice, the notified Participating Retailer Location may correct any compliance deficiency by submitting a new photo (subject to audit) to the Photo Database showing compliance or by otherwise demonstrating to the Auditor that its display of Corrective-Statement Sign(s) is compliant with this Order. If the Participating Retailer Location fails to demonstrate compliance during the 30-day period following the issuance of a Photo Noncompliance Notice, the Participating Retailer Location shall be added to the list for an In-Person Audit in the Suspected Noncompliance Pool (subject to the limits on the audit sample set forth in Section V.6.b, below).

5. Tip Line.

a. The Manufacturers shall require the Auditor to create a Tip Line for the general public to report suspected noncompliance with this Order. The Auditor shall review tips received from the Tip Line, and, if the Auditor determines that a Participating Retailer Location may not be complying with this Order, the Auditor shall notify the Participating

Retailer Location and the Working Group of such suspected noncompliance and provide a monthly report to the Working Group of all tips received.

b. Any Participating Retailer Location identified through the Tip Line as suspected of noncompliance with this Order shall be added to the Suspected Noncompliance Pool for the current Audit Period on a rolling basis (subject to the limits on the audit sample set forth in Section V.6.b, below). Once the limit of the audit sample set is reached or when there are less than 4 weeks remaining in the then current Audit Period, whichever occurs first, a Participating Retailer Location identified through the Tip Line shall be added to the list of Participating Retailer Locations eligible to be selected by Plaintiffs for an In-Person Audit from the Suspected Noncompliance Pool for the next Audit Period. Any Participating Retailer Location identified through the Tip Line and suspected of noncompliance during the Rotation Period, and selected by Plaintiffs for an In-Person Audit in the Suspected Noncompliance Pool, shall be added to the list for an In-Person Audit in the Suspected Noncompliance Pool for the third Audit Period (subject to the limits on the audit sample set forth in Section V.6.b, below).

c. Any Participating Retailer Location identified through the Tip Line that does not later receive an In-Person Audit during the current Audit Period shall be sent a warning letter from the Auditor notifying the Participating Retailer Location that it was identified through the Tip Line as suspected of noncompliance and reminding the Participating Retailer of its obligations under its Participating Retailer Contract.

6. In-Person Audits. During each Audit Period, the Auditor shall conduct In-Person Audits of Participating Retailer Locations drawn from two separate pools: the Representative Sample Pool and the Suspected Noncompliance Pool.

a. Representative Sample Pool. The Auditor shall designate a Representative Sample of 6,000 Participating Retailer Locations for In-Person Audit during each Audit Period.

b. Suspected Noncompliance Pool. During each Audit Period, the Auditor shall provide the Working Group notice of the Participating Retailer Locations included in the Suspected Noncompliance Pool. In each Audit Period, the Auditor shall conduct an In-Person Audit of up to 4,000 Participating Retailer Locations drawn from the Suspected Noncompliance Pool. If there are more than 4,000 Participating Retailer Locations in the Suspected Noncompliance Pool in any Audit Period, then prior to the beginning of each Audit Period, Plaintiffs shall select the Participating Retailer Locations from the Suspected Noncompliance Pool to be subject to In-Person Audit.

c. If the Auditor determines that any Participating Retailer Location in the audit sample is no longer a Participating Retailer Location, that Participating Retailer Location shall be replaced in the audit sample with a Participating Retailer Location that is (i) in the same United States Census Region or United States Territory and (ii) was shipped a volume of Covered Brands of cigarettes in the last 12 months that is similar to the Participating Retailer Location being replaced.

d. When conducting an In-Person Audit, the Auditor shall make all reasonable efforts not to interfere with the Participating Retailer Location's business activities and, in

any event, shall not interfere with the Participating Retailer Location's business activities any more than is necessary in order to take photos.

e. The Auditor shall evaluate those photos taken during an In-Person Audit to determine whether the Participating Retailer Location is displaying the Corrective-Statement Signs required for that Participating Retailer Location by its revised Participating Retailer Contract. The Auditor shall record any criteria that the Auditor determined in good faith were not satisfied and, in the event of noncompliance, issue an In-Person Noncompliance Notice to the Participating Retailer Location and Working Group by email within 21 days of the In-Person Audit.

f. Once a Participating Retailer Location is selected for an In-person Audit, either in the Representative Sample Pool or the Suspected Noncompliance Pool, the Auditor shall not disclose the identity of selected Participating Retailer Locations to anyone until after the completion of the In-person Audits, at which time the Auditor shall provide a report to the Working Group on the findings of the audit, including the evidence supporting such findings for each audited Participating Retailer Location.

7. Noncompliance Appeals.

a. An In-Person Noncompliance Notice will become a Final Determination of Noncompliance 15 days after it is issued, unless there is a Noncompliance Appeal.

b. Within 14 days of issuance of an In-Person Noncompliance Notice, a Participating Retailer Location or member of the Working Group may submit a Noncompliance Appeal of the Auditor's decision by email to the Working Group.

c. Within 7 days of receiving Noncompliance Appeal, the Working Group shall decide whether to affirm, vacate, or modify the In-Person Noncompliance Notice. If the Working Group decides by the vote of a majority of the members of the Working Group in attendance, including by proxy, to affirm, vacate, or modify the In-Person Noncompliance Notice, it shall immediately, by email, notify the Participating Retailer Location and the Auditor of its decision.

d. A decision on a Noncompliance Appeal of Minor Noncompliance Notice made by the vote of a majority of the members of the Working Group in attendance, including by proxy, at a meeting of the Working Group is final and not subject to appeal.

e. A Working Group decision adverse to the Participating Retailer Location on a Noncompliance Appeal of Major Noncompliance Notice by the vote of a majority of the members of the Working Group in attendance, including by proxy, at a meeting of the Working Group, may be appealed to the Adjudicator by the Participating Retailer Location or a member of the Working Group by email within 7 days following the decision of the Working Group.

f. If there is a tie vote of the members of the Working Group in attendance, including by proxy, at a meeting of the Working Group regarding a Noncompliance Appeal following either a Major Noncompliance Notice or Minor Noncompliance Notice, such decision may be appealed by the Participating Retailer Location or a member of the Working Group by email within 7 days following issuance of the decision of the Working Group. A decision made by the Adjudicator following a tie at the Working Group of

Noncompliance Appeal of a Minor Noncompliance Notice shall be final and not subject to appeal.

g. The Adjudicator's decision on a Noncompliance Appeal of a Major Noncompliance Notice is appealable to the Court by the Participating Retailer Location or a member of the Working Group. Any such appeal shall be submitted within 7 days of the Adjudicator's decision. If the Adjudicator's decision on a Noncompliance Appeal of a Major Noncompliance Notice is adverse and the result of the Major Noncompliance Notice is that the Participating Retailer Location must post an additional Corrective Statement Sign or be subject to other non-monetary consequences, such sign shall be posted or other non-monetary consequences shall occur during any appeal. No required financial payment resulting from a Major Noncompliance Notice shall be due while an appeal is pending.

h. The Court's standard of review for a Noncompliance Appeal decision made by the Adjudicator shall be clear error, regardless of the basis for the appeal.

i. Any Adjudicator decisions under this section must be issued within 14 days of the conclusion of briefing to the Adjudicator.

j. If a Participating Retailer Location establishes that it did not receive Corrective-Statement Sign(s) from a Manufacturer at all, or in insufficient number to fulfill the requirements of Section III above, or that the Corrective-Statement Sign(s) received did not comply with this Consent Order, the Participating Retailer Location shall be deemed compliant with the Participating Retailer's contractual obligations to Manufacturers under this Order. The Manufacturers shall immediately correct the issue that caused the finding of noncompliance. If the noncompliance was discovered during an

In-Person Audit of the Representative Sample Pool, the Participating Retailer Location shall count as noncompliant for purposes of calculating the Representative Sample Noncompliance Rate. This paragraph does not preclude considering contempt against a Manufacturer.

VI. Result of Audit.

1. Minor Noncompliance. With respect to any Participating Retailer Location:

a. Upon the first Final Determination of an incidence of Minor Noncompliance, the noncompliant Participating Retailer Location shall be counseled into compliance by the Manufacturers.

b. Upon the second Final Determination of an incidence of Minor Noncompliance upon, the noncompliant Participating Retailer Location shall be counseled into compliance by the Manufacturers and receive a warning letter from the Auditor that the third finding of Minor Noncompliance will result in the consequences described in Section VI.1.c, below, as shall be set forth in all Participating Retailer Contracts.

c. Upon the third Final Determination of an incidence of Minor Noncompliance, the noncompliant Participating Retailer Location shall be counseled into compliance by the Manufacturers and shall be required to post an additional 144 sq. in. Corrective-Statement Sign for 120 days in one of the locations provided in Section III.1.a or III.2, above.

2. Major Noncompliance. With respect to any individual Participating Retailer Location:

a. Upon the first Final Determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location shall be (i) counseled into compliance by the Manufacturers and (ii) required to post an additional 144 sq. in. Corrective-Statement Sign in one of the locations provided in Sections III.1.a or III.2, above, with such additional sign to be posted for the remainder of the Implementation Period. Notwithstanding the foregoing, for Participating Retailer Locations that Manufacturer representatives do not regularly visit and have not visited since the beginning of the Posting Period, upon the first finding at such a Participating Retailer Location of Major Noncompliance after an In-Person Audit, the noncompliant Participating Retailer Location shall (i) be counseled into compliance by the Manufacturers and (ii) receive a warning letter from the Auditor that subsequent findings of Major Noncompliance will result in required payments.

b. Upon the second Final Determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location shall (i) be counseled into compliance by the Manufacturers and (ii) owe to each Manufacturer with which it is contracted a payment equal to any Price Promotion for Covered Brands owed to the Participating Retailer Location by each contracted Manufacturer for a period of 4 weeks. The Participating Retailer Location will have 4 weeks to either (i) make the payment to each contracted Manufacturer or (ii) elect to have future payment under its Participating Retailer Contract withheld until the amount of the payment is fully satisfied. In choosing between paying the payment and having future payments withheld, a Participating Retailer Location need not make the same choice with regard to each contracted Manufacturer. If

the Participating Retailer Location does not make the payment by the end of this four-week period or elect to have payments withheld, the unpaid Manufacturers shall withhold future payments owed to the Participating Retailer Location under the Participating Retailer Contract(s) until the payment is satisfied. Once the payment is fully offset, the Manufacturer(s) shall resume payments to the Participating Retailer Location, including the remaining balance of any payment partially offset by the payment. The Participating Retailer Location may pay the outstanding balance at any time even if Manufacturers have started to withhold future payments.

c. Upon the third Final Determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location shall (i) be counseled into compliance by the Manufacturers and (ii) owe to each Manufacturer with which it is contracted a payment equal to any Price Promotion for Covered Brands owed to the Participating Retailer Location by each contracted Manufacturer for a period of 13 weeks. The Participating Retailer Location will have 4 weeks to either (i) make the payment to each contracted Manufacturer, or (ii) elect to have future payment under its Participating Retailer Contract withheld until the amount of the payment is fully satisfied. In choosing between paying the payment and having future payments withheld, a Participating Retailer Location need not make the same choice with regard to each contracted Manufacturer. If the Participating Retailer Location does not make the payment by the end of this four-week period or elect to have payments withheld, the unpaid Manufacturers shall withhold future payments owed to the Participating Retailer Location under the Participating Retailer Contract(s) until the payment is satisfied. Once the payment is fully offset, the

Manufacturer(s) shall resume payments to the Participating Retailer Location, including the remaining balance of any payment partially offset by the payment. The Participating Retailer Location may pay the outstanding balance at any time, even if Manufacturers have started to withhold future payments.

d. Upon the fourth Final Determination of an incidence of Major Noncompliance, the noncompliant Participating Retailer Location shall (i) be counseled into compliance by the Manufacturers and (ii) be suspended for 17 weeks from the Participating Retailer Contracts of each Manufacturer with which it is contracted. This suspension period will begin 45 days after the Final Determination of such noncompliance.

3. The Manufacturers shall provide proof of satisfaction of additional signage required by Section VI.1.c and Section VI.2.a, the monetary payments required by Section VI.2.b and VI.2.c, and the suspension from the Participating Retailer Contracts required by Section VI.2.d to the Auditor and the Working Group within 30 days after such actions were required to be completed.

4. Monetary Penalty. If the Auditor finds a Representative Sample Noncompliance Rate greater than fifteen percent (15%) in any of the first, second, or third Audit Periods, and such finding is not subsequently revised below that threshold by challenges to the audit results, then the Manufacturers shall pay a civil penalty to the U.S. Treasury of Three Million Five Hundred Thousand Dollars (\$3,500,000) to be apportioned among the Manufacturers as determined by the Manufacturers. If the Auditor finds a Representative Sample Noncompliance Rate greater than fifteen percent (15%) in the fourth Audit Period, and such finding is not subsequently revised below that threshold by challenges to the audit results, then the Manufacturers shall pay a civil

penalty to the U.S. Treasury of Seven Million Five Hundred Thousand Dollars (\$7,500,000) to be apportioned among the Manufacturers as determined by the Manufacturers. The results of the In-Person Audits of the Suspected Noncompliance Pool shall not be considered in determining whether this monetary penalty provision has been triggered. Any payments under this Section shall be made within 30 days of the penalty accruing.

VII. Working Group.

1. Plaintiffs and Manufacturers shall establish a Working Group to address implementation and compliance questions and any individual circumstances that do not meet this Order's terms. The Working Group may begin fielding implementation questions upon the Effective Date, shall continue providing assistance through the end of the remedy, and is authorized to resolve Noncompliance Appeals as described herein.

2. Attendance of six members of the Working Group, with at least one member representing, including by proxy, each of the Department of Justice, the Public Health Intervenor, the Manufacturers, and the Retailer Groups, and attendance of the Mediator constitutes a quorum for the transaction of business. By unanimous consent of the members of the Working Group otherwise constituting a quorum, the absence of the Mediator may be excused. At any point during any meeting, if less than a quorum is present, the meeting shall adjourn without further notice. A member of the Working Group may participate in a meeting by conference telephone or other remote communications equipment by means of which all persons participating in the meeting can communicate with one another. Participation in a meeting in this manner constitutes presence in person at the meeting. A member of the Working Group may appoint a proxy, including another member of the Working Group, to attend, participate, vote, or otherwise act for the member.

3. At any meeting of the Working Group at which a quorum is present, the vote of a majority of the members of the Working Group in attendance, including by proxy, shall be the act of the Working Group. A written record shall be kept of all acts of the Working Group.

4. The Mediator shall serve and the Adjudicator shall issue decisions, as follows:

a. The Mediator shall attempt to facilitate informal resolution of Working Group disputes. If there is a tie vote of the members of the Working Group in attendance, including by proxy, at a meeting of the Working Group, the Mediator shall vote on the issue to break the tie.

b. The Adjudicator may be asked to hear Noncompliance Appeals on the terms provided in Section V.7 above and to hear appeals from tie-breaking decisions of the Mediator. The Participating Retailer Location, or the member of the Working Group seeking the Adjudicator's appellate review, may submit a brief at the same time as the notice of appeal provided for in Section V.7.e-f above. Any other member of the Working Group or the Participating Retailer Location (if it is not the appellant) may submit a brief in support of the appellant's position within 3 business days of the appellant's notice of appeal. Any other member of the Working Group may submit a brief in opposition to the appellant's position within 7 business days of the appellant's notice of appeal. Briefs submitted to the Adjudicator pursuant to this paragraph may be no more than 5 pages. Any Adjudicator decisions under this section must be issued within 14 days of the conclusion of briefing to the Adjudicator.

c. Linda Singer, Esq. shall serve as the initial Mediator. The Honorable Richard A. Levie (ret.) shall serve as the initial Adjudicator. Should the Mediator or

Adjudicator resign by notice to the Court and members of the Working Group or otherwise become unavailable to serve, the Mediator or Adjudicator may be replaced by unanimous agreement of the members of the Working Group to nominate a new Mediator or Adjudicator, or, if the Working Group cannot so agree, by a replacement appointed by the Court.

d. In the event that one of the Mediator or Adjudicator is temporarily unable to serve, the other shall fill in for the unavailable individual on that issue; in such a circumstance where the Adjudicator fills in for the Mediator on a specific issue, the Mediator shall fill the Adjudicator's role, if any, with respect to that specific issue. For the avoidance of doubt, the Mediator shall not fill the Adjudicator's role with respect to a specific issue in which the Mediator issued a tie breaking vote at the Working Group level.

e. Manufacturers shall pay all fees and costs of the Mediator and Adjudicator, allocated amongst Manufacturers as they see fit.

5. The Retailer Groups' participation in the Working Group will be voluntary, and their status as non-parties invited by the Court to provide input will not change by virtue of this Order or their participation in the Working Group. In the event either or both Retailer Groups opt out of the Working Group, the Manufacturers shall fill the remaining spots on the Working Group by appointing additional individuals to bring the total membership to 10.

VIII. Additional Provisions.

1. This Fourth Superseding Consent Order Implementing the Corrective-Statements Remedy at Point of Sale modifies certain provisions of Order #1015. Where the terms of this Fourth Superseding Consent Order differ from Order #1015, this Fourth Superseding Consent Order will govern.

2. The Corrective-Statement Sign formats specified above and illustrated in Exhibit A are intended to be comprehensive. No Manufacturer shall alter, modify, or add to the specified elements of these formats, and no additional text, images, or other elements may be included, absent approval of a majority of the Working Group or further Order of this Court.

3. The parties agree that, if the parties' (Proposed) Fourth Superseding Consent Order Implementing the Corrective-Statements Remedy at Point of Sale is approved by this Court without modification, then the parties will not challenge on appeal this Fourth Superseding Consent Order, and the specific implementation executions will commence on the schedule specified herein, unless this Court orders otherwise. However, should the Court modify any term or requirement in the parties' (Proposed) Fourth Superseding Consent Order Implementing the Corrective-Statements Remedy, no party waives or abandons any appeal or appellate rights or argument, and the parties reserve the right to seek different requirements than those stated herein.

4. The parties agree to refrain from soliciting or supporting in any way any opposition to this Order from any other person or entity, except by voluntarily providing requested relevant information to another person or entity.

5. Defendants and the Remedies Parties' agreement to these terms and to these executions of the POS Corrective Statements prescribed by Order #72-Remand shall not be deemed or construed as an admission of Defendants or the Remedies Parties, collectively or individually.

6. Nothing in this Order shall be construed as precluding any other relief provided by law, including a finding of contempt.

7. Should there be any stay of the implementation of this Order, any party may petition the Court to vacate this Order and nullify the settlement. Should the Court do so, it will then set this matter for the evidentiary hearing that was previously scheduled to begin on June 13, 2022, at the soonest opportunity.

8. This Fourth Superseding Consent Order is the complete agreement of the parties as to the point of sale remedy and supersedes any prior negotiations, agreements, or understandings of the parties as to the parties' agreement. The terms of this Order cannot be modified or amended without written consent by all parties.

SO ORDERED.

DATED: December 6, 2022


PAUL L. FRIEDMAN
U.S. District Judge

We consent to entry of the above superseding consent order:

Respectfully submitted,

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Exhibits

Exhibit A—Revised Style Guide for Corrective-Statement Signs (including Spanish language)

Exhibit B—Examples of Major/Minor Noncompliance

Exhibit A



GUIDELINES FOR COURT-ORDERED CORRECTIVE- STATEMENTS SIGNS AT RETAIL POINTS OF SALE

July 2022

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OVERVIEW

A Federal Court Order requires "POS Corrective-Statements Signs" to be displayed with certain cigarette merchandising sets and off-set cigarette marketing material at retail points of sale.

These guidelines explain the POS Corrective-Statements Signs' design and display.

All POS Corrective-Statements Signs must comply with these guidelines.

POS CORRECTIVE-STATEMENTS SIGNS ARCHITECTURE

4

Guidelines for Court-Ordered POS Corrective-Statements Signs

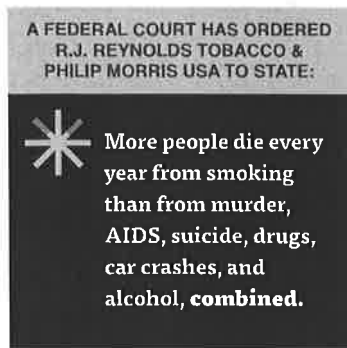
POS CORRECTIVE-STATEMENTS SIGNS ARCHITECTURE

This is the basic architecture of the POS Corrective-Statement Sign. Although the substantive statements vary in length, the containers in which they are presented should all follow these instructions. The asterisk icon is always on the left side of the POS Corrective Statement, and the preamble is always in an aqua blue box that is designed at 25% of the entire container. There are two versions of the preamble. The POS Corrective-Statements Signs come in two sizes - 348 and 144 square inches - in both a rectangular and square orientation.



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POS CORRECTIVE-STATEMENTS SIGNS DESIGN / TYPOGRAPHY / COLOR PALETTE



Helvetica Bold used for the preamble.

ABCDEFGHIJKLMNOPQRSTUVWXYZ

Tisa Pro Bold used for the factual statements.

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz 0123456789!@#%&*(",.:'"?)

Tisa Pro Black used for the words of a factual statement that show in heavy type.

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz 0123456789!@#%&*(",.:'"?)

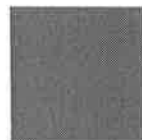
Color Palette

POS Corrective-Statements Signs use this color palette.



Aqua Blue
C: 50
M: 0
Y: 17
K: 0

R: 119
G: 205
B: 214



Magenta
C: 15
M: 94
Y: 26
K: 0

R: 209
G: 50
B: 119



Rich Black 4c
C: 30
M: 30
Y: 30
K: 100

R: 0
G: 0
B: 0

POS CORRECTIVE-STATEMENTS SIGNS ELEMENTS / ENGLISH

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PREAMBLE VARIATIONS / ENGLISH

There are two versions of the preamble in English.

Preamble One / English

**A FEDERAL COURT HAS ORDERED
R.J. REYNOLDS TOBACCO & PHILIP MORRIS USA TO STATE:**















Preamble Two / English

**A FEDERAL COURT HAS ORDERED
PHILIP MORRIS USA & R.J. REYNOLDS TOBACCO TO STATE:**

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17 POS CORRECTIVE-STATEMENTS SIGNS / ENGLISH

There are 17 versions of the POS Corrective-Statements Signs In English.

 Smoking kills, on average, 1,200 Americans. Every day.	 More people die every year from smoking than from murder, AIDS, suicide, drugs, car crashes, and alcohol, combined.	 Smoking causes heart disease, emphysema, acute myeloid leukemia, and cancer of the mouth, esophagus, larynx, lung, stomach, kidney, bladder, and pancreas.	 Smoking also causes reduced fertility, low birth weight in newborns, and cancer of the cervix.
 Smoking is highly addictive. Nicotine is the addictive drug in tobacco.	 Cigarette companies intentionally designed cigarettes with enough nicotine to create and sustain addiction.	 It's not easy to quit.	 When you smoke, the nicotine actually changes the brain—that's why quitting is so hard.
 Many smokers switch to low tar and light cigarettes rather than quitting because they think low tar and light cigarettes are less harmful. They are <i>not</i>.	 "Low tar" and "light" cigarette smokers inhale essentially the same amount of tar and nicotine as they would from regular cigarettes.	 All cigarettes cause cancer, lung disease, heart attacks, and premature death—lights, low tar, ultra lights, and naturals. There is no safe cigarette.	 Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA intentionally designed cigarettes to make them more addictive.
 Cigarette companies control the impact and delivery of nicotine to make more, including designing filters and selecting cigarette paper to maximize the absorption of nicotine, adding chemicals to make the cigarette taste less harsh, and controlling the physical and chemical makeup of the tobacco blend.	 There is no safe level of exposure to secondhand smoke.	 Secondhand smoke kills over 38,000 Americans each year.	 Secondhand smoke causes lung cancer and coronary heart disease in adults who do <i>not</i> smoke.
 Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, severe asthma, and reduced lung function.			

POS CORRECTIVE-STATEMENTS SIGNS ELEMENTS / SPANISH

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PREAMBLE VARIATIONS / SPANISH

There are two versions of the preamble in Spanish.

Preamble One / Spanish

**UNA CORTE FEDERAL HA ORDENADO A R.J. REYNOLDS TOBACCO
Y PHILIP MORRIS USA A REALIZAR LA SIGUIENTE DECLARACIÓN:**

Preamble Two / Spanish

**UNA CORTE FEDERAL HA ORDENADO A PHILIP MORRIS USA
Y R.J. REYNOLDS TOBACCO A REALIZAR LA SIGUIENTE DECLARACIÓN:**

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17 POS CORRECTIVE-STATEMENTS SIGNS / SPANISH

There are 17 versions of the POS Corrective-Statements Signs in Spanish.

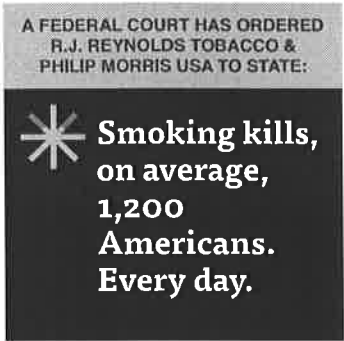
 Fumar mata, en promedio, a 1200 estadounidenses. Cada día.	 Dos personas mueren cada día a consecuencia de fumar que por asesinatos, SIDA, suicidios, drogas, accidentes automovilísticos y alcohol, combinados.	 Fumar causa enfermedades cardíacas, enfisema, hepatitis pulmonar aguda y cáncer de boca, esófago, intestino, pulmón, estómago, riñón, vejiga y páncreas.	 Fumar también causa disminución de la fertilidad, bajo peso en recién nacidos y cáncer de cuello uterino.
 Fumar es altamente adictivo. La nicotina es la droga adictiva presente en el tabaco.	 Las compañías fabricantes de cigarrillos intencionalmente diseñaron cigarrillos con suficiente nicotina para crear y mantener la adicción.	 No es fácil dejar de fumar.	 Cuando usted fuma, la nicotina de hecho provoca cambios en el cerebro—por eso es tan difícil dejar de fumar.
 No hay que fumar en ambientes con cigarrillos con hiperconcentración de nicotina en los cigarrillos "lights". A veces se debe de fumar porque pensamos que los cigarrillos con hiperconcentración de nicotina y los cigarrillos "lights" son menos perjudiciales. No lo son.	 Los fabricantes de cigarrillos con "baja cantidad de alquidina" y de cigarrillos "lights" incluyen intencionalmente la misma cantidad de alquidina y de nicotina que incluyen los cigarrillos regulares.	 Todos los cigarrillos causan cáncer, enfermedades pulmonares, ataques al corazón y muerte prematura—sea "lights", con bajo contenido de alquidina, "ultra lights", o sea o natural. No hay cigarrillos seguros.	 Altria, R.J. Reynolds Tobacco, Lorillard y Philip Morris USA han intencionalmente diseñado los cigarrillos para hacerlos más adictivos.
 Las compañías fabricantes de cigarrillos controlan el contenido de nicotina de sus cigarrillos. Incluso en el caso de "lights" y de la reducción del peso por cigarrillos en el día de hoy, el contenido de nicotina de los cigarrillos "lights" sigue siendo el mismo que el de los cigarrillos regulares.	 No existen niveles seguros de exposición al humo de tabaco ambiental.	 El humo de tabaco ambiental mata a más de 38.000 estadounidenses cada año.	 El humo de tabaco ambiental causa cáncer de pulmón y enfermedades coronarias en adultos que no fuman.
 Los niños expuestos al humo de tabaco ambiental tienen un mayor riesgo de sufrir de muerte infantil súbita, infecciones respiratorias graves, problemas de oído, asma grave y problemas de función pulmonar.			

POS CORRECTIVE-STATEMENTS SIGNS SIZE VARIATIONS

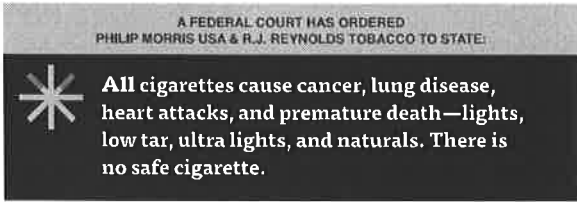
POS CORRECTIVE-STATEMENTS SIGNS / SIZE VARIATIONS

The images below are representations, that show some distortion, and are not actual size. Final outputs should be printed at 100% for in-store placement. The preamble box is designed at 25% of the container's total area.

348 SQ INCH



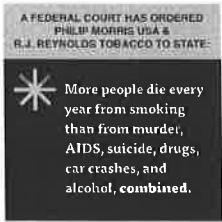
18.655" X 18.655"



32" X 10.875"

Note: All preamble boxes have been sized at 25% of the container's total area.

144 SQ INCH



12" X 12"



20" X 7.2"

GENERAL RULES

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POS CORRECTIVE-STATEMENTS SIGNS / INCORRECT USAGE

POS Corrective-Statements Signs must be printed on (i) 18pt - 20pt card stock or material with similar durability and stiffness or (ii) vinyl or material with similar durability and stiffness.

Incorrect Usage

- 1 Never change the colors
- 2 Never rotate the corrective container
- 3 Never distort the proportion
- 4 Never add a drop shadow
- 5 Never add type elements
- 6 Never change the opacity
- 7 Never change the artwork to include a graphic frame.
A physical frame is permitted for support as long as no graphics are obscured
- 8 Never change the proportions
- 9 Never change the position of elements



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POS CORRECTIVE-STATEMENTS SIGNS / CLEARANCE & PLACEMENT

The Consent Order sets forth the precise requirements for placement of the POS Corrective-Statement Signs. These images show only some examples of potential POS Corrective-Statement Sign placement.

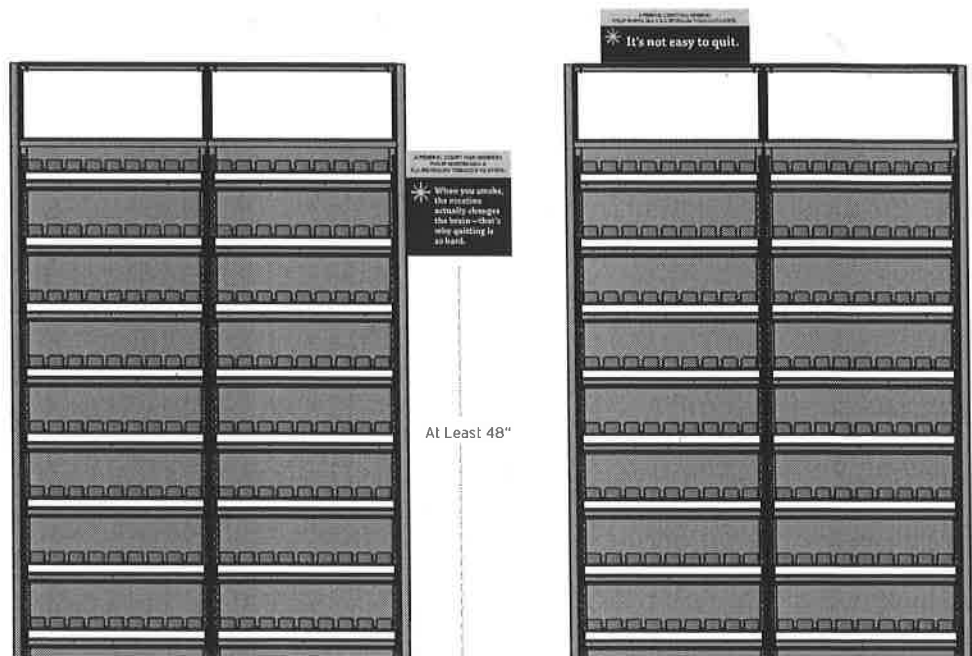


Exhibit B

Examples Of Major And Minor Noncompliance

I. Examples Of Major Noncompliance

A retail location comes into major noncompliance by:

1. Failing to post any sign that it is required to post
2. Posting a sign in a location that results in the message (Preamble or corrective statement) not being visible from the customer's vantage point
3. Obstructing any portion of the message (Preamble or corrective statement) or icon on any sign that it is required to post
4. Defacing or damaging a sign in any way that renders unreadable from the customer's vantage point any portion of the message (Preamble or corrective statement) on any sign that the location is required to post
5. Taking down a sign that it is required to post before expiration of the Full Implementation Period
6. Placing an on-set sign in a position in the hierarchy that is lower than possible, where the location has previously been found noncompliant on this basis via in-person audit. *E.g.:*
 - Placing a sign in position #3 when position #1 or #2 is possible, after the location was found noncompliant via in-person audit for placing a sign in position #3 when #1 or #2 is possible.
7. Failing to rotate its sign as required, as determined in an in-person audit, unless the retail location has uploaded a photo showing compliance with the rotation requirement within 30 days of the finding of noncompliance.
8. Posting a sign in English where it is required to post a sign in Spanish, where the location has previously been found noncompliant on this basis via in-person audit

II. Examples Of Minor Noncompliance

A retail location comes into minor noncompliance by:

1. Obstructing any portion of a sign other than the message (Preamble or corrective statement) or icon
2. Placing an on-set sign in a position in the hierarchy that is lower than possible, unless the location has previously been found noncompliant on this basis via in-person audit. *E.g.:*
 - A retail location placing a sign in position #3 when position #1 or #2 is possible.

3. Posting a sign whose message is visible to customers but not in the precise location required. *E.g.*:
 - An on-set sign that is up to 12" lower than 48" (*i.e.*, between 36" and 48") but whose message is still visible from the customer's vantage point;
 - An on-set sign that is not exactly in the same plane as the fixture but whose message is still visible from the customer's vantage point;
 - An off-set sign that is up to 12" farther from the main entrance than 48" (*i.e.*, between 48" and 60" from the main entrance)
4. Posting a sign in English where it is required to post a sign in Spanish, unless the location has previously been found noncompliant on this basis via in-person audit

Appendix F: Summary of SCC Procedures

(for sharing with external third parties)

a) Overview

Purpose of this document

The Standards of Business Conduct (**SoBC**) and applicable laws, policies and procedures require BAT operating companies to ensure that they do not knowingly engage in unlawful trade of our tobacco leaf and/or products and their business practices only support legitimate trade in tobacco leaf and/or products.

The procedures also require us to inform any person or entity (other than a BAT operating company or a direct store distribution customer (**DSD Customer**) of a BAT operating company) which directly purchases tobacco leaf and/or products from a BAT operating company (**Customer**) and any person or entity engaged by contract by a BAT operating company to manufacture, sell, distribute or store any tobacco leaf and/or products (**Contractor**) about these anti-illicit trade policies and procedures (**SCC Procedures**).

This document provides an overview for our Customers and Contractors (together, **Supply Chain Entities**) on how we comply with our commitments regarding illicit trade and to help you to understand the role that you play in ensuring that these SCC Procedures are followed. Our objective is to maintain robust supply chain controls and to take appropriate action where there are risks that our tobacco leaf and/or products may be smuggled.

Should you require any further information about these SCC Procedures, please do not hesitate to get in touch with your local representative.

Application

All BAT operating companies are expected to abide by the SoBC. We are required to maintain certain controls in respect of all markets into which our tobacco leaf and/or products are supplied to prevent our tobacco leaf and/or products being diverted into illicit trade channels.

Additional controls will be required in certain markets representing a high risk of being the source of smuggled tobacco leaf and/or products and/or in respect of certain brands which are at high risk of being smuggled and/or tax being evaded.

All of our Supply Chain Entities are required to adopt all controls which are appropriate given market conditions and risk levels.

Failing to observe these SCC Procedures may result in BAT operating companies taking steps as identified below, including the suspension of supplies of tobacco leaf and/or products and/or termination of dealings with non-compliant Supply Chain Entities.

Status of procedures

SCC Procedures and the assessment of high-risk markets and/or brands will be reviewed on a regular basis. These SCC Procedures will be revised and updated in accordance with any relevant

changes in the SoBC or other policies, principles and standards, legislative amendments, specific requests from authorities, and other developments and trends identified in the market and general business environment.

b) Supply chain controls applicable to all markets

The SoBC expect BAT operating companies to maintain controls to prevent tobacco leaf and/or products being diverted into illicit trade channels.

In all end markets, these controls should include:

'Know your customer' evaluation and approval procedures

'Know your customer' (**KYC**) is an important procedure. It is necessary for ensuring that our tobacco leaf and/or products are only sold to reputable Customers/DSD Customers and made using reputable Contractors.

All BAT operating companies are required to conduct due diligence on Customers, DSD Customers supplied directly through a BAT operating company's in-house distribution and suppliers, including Contractors. Where subsequent customers are supplied through Supply Chain Entities, the Supply Chain Entities should ensure compliance with KYC requirements in line with local legal requirements.

Monitor supplies to market

BAT operating companies are required to monitor the overall mix and volume of tobacco products supplied to individual markets.

Procedures for investigating, suspending and terminating dealings with Supply Chain Entities suspected of involvement in illicit trade

BAT operating companies are required to seek contractual rights to investigate, suspend and cease dealings with Supply Chain Entities, and to require Supply Chain Entities to cease dealings with parties further along the supply chain, if it is reasonably believed that Supply Chain Entities (or others in the supply chain such as subsequent customers) are involved, knowingly or recklessly, in illicit trade.

Where BAT operating companies become aware of non-compliance by Supply Chain Entities, or others in the supply chain, (such as subsequent customers) with applicable laws and/or supply chain policies and procedures, they are required to take actions to address the non-compliance. Such actions may include:

- a. warning against non-compliance and requesting an explanation;
- b. asking for steps to be taken to remedy non-compliance;
- c. reduction in supplies of tobacco leaf and/or products;
- d. delisting of certain brands;
- e. capping sales;
- f. where necessary, suspension or termination of supplies;
- g. where necessary, cessation of dealings; and/or
- h. reporting non-compliance to the authorities.

Response to notified seizures

BAT operating companies are required to respond appropriately to all notifications of seizures of alleged "BAT" branded products by authorities. To the extent reasonably practicable, steps should be taken to assess the information received, investigate the seizures and identify whether any actions can be taken or additional controls introduced in order to reduce the risk of tobacco products being diverted into illicit trade channels. What actions/controls are appropriate will depend on the pattern of smuggling, available track and trace technology, circumstances of the seizure, etc.

BAT operating companies are required to provide information about seized products requested by regulatory authorities, and/or required by legislation, in accordance with the deadlines set by authorities/legislation and in any event without unreasonable delay.

Your cooperation as Supply Chain Entities may be required to ensure appropriate actions are taken in response to notified seizures.

Communication with Supply Chain Entities on illicit trade issues

BAT operating companies are required to engage in regular communication with our Supply Chain Entities on illicit trade issues, to reinforce the importance of avoiding facilitating illicit trade.

c) Additional supply chain controls applicable to high-risk markets

BAT operating companies in high-risk markets are required to adopt the additional controls below where appropriate and reasonably practicable.

Extended KYC procedures

In high-risk markets, BAT operating companies should, where possible, work with its Customers to conduct due diligence in respect of all distributors of tobacco products to the retail level e.g. subsequent customers of a BAT operating company's Customers and any other downstream supply chain entities.

Measures to ensure supply to markets reflects legitimate demand

BAT operating companies are required to monitor the overall mix and volume of tobacco products supplied to individual markets to ensure supplies are consistent with legitimate demand in those markets.

Where necessary, BAT operating companies may decide to cap sales in areas that represent a high smuggling risk or cap sales of specific brands representing a high smuggling risk.

Tracking and tracing supplies

BAT operating companies in high-risk markets are required to introduce track and trace technology to the first external customer. The requirement to track and trace supplies to the first external customer may not apply in respect of certain end markets where a BAT operating company only supplies a single first external customer. Your local BAT operating company representative will contact you to discuss any track and trace requirements and your cooperation may be required to ensure that they are appropriately implemented.

BAT operating companies should be able to identify the first external customers which supplied seized tobacco products in respect of all seizures of tobacco products originating from high-risk markets.

Where necessary to identify the point at which tobacco products have left the legitimate supply chain, BAT operating companies may need to introduce additional measures such as:

- track and trace beyond the first external customer (**Additional Customer Tracking** or **ACT**);
- or
- other checks (e.g. audits of retailer sales volumes) to ensure that all tobacco products supplied to a market are in fact ultimately sold at retail in the intended market.

Your cooperation may be required in respect of these measures.

Training for Supply Chain Entities

BAT operating companies may conduct training for Supply Chain Entities in high-risk markets to address the specific circumstances giving rise to illicit trade risks in that market. Your local BAT operating company representative will get in touch to discuss the delivery of training, where applicable.

Communication with subsequent customers on illicit trade issues

To the extent that it is reasonably practicable, BAT operating companies may wish to consider communicating directly with subsequent customers, where this is required to address illicit trade, tax evasion and tax facilitation risks in a specific high-risk market or in respect to specific high-risk brands. Your cooperation may be required to facilitate such discussions.