

Memorandum of Understanding Concerning Adult-Only Facilities

1. The parties to this Memorandum of Understanding ("Memorandum") are U. S. Smokeless Tobacco Company ("USSTC") and the undersigned Settling States under the Smokeless Tobacco Master Settlement Agreement dated November 23, 1998 ("STMSA").
2. All capitalized terms in this Memorandum shall have the same meaning as they have in the STMSA, unless otherwise indicated.
3. The parties enter into this Memorandum to clarify their joint understanding concerning certain provisions of the STMSA.
4. USSTC shall act in accordance with the terms of this Memorandum in each Settling State that executes this Memorandum within 120 days after such Settling State executes this Memorandum.
5. Any signage used by USSTC under exception 4 to the definition of Outdoor Advertising in Section II(dd) of the STMSA shall not advertise any of its Tobacco Products (other than by using a Brand Name to identify the event to be held at an Adult-Only Facility). Consistent with this provision, if USSTC chooses to hold an event at an Adult-Only Facility:
 - a. USSTC may pair a Brand Name with words for an area or enclosure to identify an Adult-Only Facility ("AOF"). For example, USSTC may use identifiers such as: (1) "The Skoal Booth"; (2) "The Rooster Promotion Center"; (3) "The Copenhagen Tent"; or (4) "The Skoal Adult-Only Facility."
 - b. If the event USSTC is identifying includes activities in addition to product sampling, then USSTC may include in the sign a Brand Name and a description of the activity to take place. For example, if USSTC wishes to present a mechanical bull riding contest in its AOF, then USSTC may identify the event as the "Copenhagen Mechanical Bull Riding Contest."
 - c. USSTC shall not identify an event by words that do not communicate to a reasonable observer the nature of the event within the AOF.
 - d. Notwithstanding any other provision in this Memorandum, USSTC shall not use a combination of words that at any time during the two-year period prior to its current use was used by USSTC to identify a USSTC Brand-Name Sponsorship, unless the AOF identified by such combination of words is at the site of the Brand Name Sponsored event identified by such combination of words and the event is the current USSTC Brand Name Sponsorship. For example, "Skoal Racing," USSTC's current Brand Name Sponsorship, may be placed on a sign only at a racing event that is part of a Skoal Brand Name Sponsorship.

- e. USSTC shall not use a combination of words if such combination of words implies to a reasonable observer that USSTC has a Brand Name Sponsorship that USSTC does not currently sponsor.
 - f. USSTC shall not include the following words to identify an event at an Adult-Only Facility: (1) "Copenhagen Tough Company"; (2) "Skoal Outdoors."
6. Any portion of an AOF in which USSTC distributes free samples (as defined in the STMSA) of any of its Tobacco Products or displays advertising for any of its Tobacco Products (other than signage used pursuant to Section II(dd) of the STMSA) shall be enclosed by a barrier that:
- a. Is constructed of, or covered with, an opaque material, with or without signage (an "opaque barrier" prevents someone outside of the barrier from seeing through it, regardless of the time of day or night);
 - b. Extends from no more than thirty (30) inches above the ground or floor to at least six (6) feet above the ground or floor; and
 - c. Prevents persons outside the AOF from seeing into the AOF through the exit or entrance, unless they make unreasonable efforts to do so; provided, however, that the barrier need not extend across any entrances or exits, the width of which should be no more than four (4) feet for an enclosed area up to one hundred (100) square feet and six (6) feet for an enclosed area greater than one hundred (100) square feet unless a greater width is required by local regulation; provided further, however, that for such entrances or exits across which the barrier need not extend, other reasonable measures, such as "no loitering" signs, shall be taken to ensure that persons outside the AOF do not see into the AOF without making unreasonable efforts to do so.
7. Portions of an AOF in which the following activities take place shall be configured in accordance with the provisions of paragraph 6(a) - (c) above:
- a. Consumer games of skill, including video and other electronic games, and
 - b. Physical contests involving consumers.
8. This Memorandum may be executed in telecopied counterparts, each of which shall constitute an original but all of which taken together shall constitute a part of the same document.
9. This Memorandum, including the negotiations relating to it, shall not be admissible in any proceeding, except to enforce its terms.

10. This is the entire Memorandum among the parties. For purposes of this Memorandum, any other writings (except the STMSA), discussions, or negotiations relating to it are superseded by it.
11. The parties have entered into this Memorandum solely to avoid the expense, inconvenience, burden, and risk of litigation. This Memorandum is not intended to be and shall not in any event be construed or deemed to be, or represented or caused to be represented as, an admission or concession of any violation of the STMSA, liability, or wrongdoing whatsoever, and USSTC specifically disclaims and denies any such violation, liability, or wrongdoing.
12. Following approval of this Memorandum by the parties, the signatory Settling States shall promptly submit it to the Tobacco Enforcement Committee of the National Association of Attorneys General and shall request that the Committee endorse this Memorandum as a fair and reasonable resolution of the disputed issues and recommend it to the other Settling States as a fair and reasonable resolution of the dispute. This Memorandum shall have no force and effect in any Settling State that does not execute it.
13. Nothing in this Memorandum shall be deemed to affect (a) any other provision of the STMSA, including, but not limited to, USSTC's rights under Section III(c)(3)(E) (advertising at the site of Brand Name Sponsorship) and under exceptions 1, 2, or 3 to the definition of Outdoor Advertising in Section II(dd), (b) any signage not including a Brand Name, (c) any signage within an AOF obstructed from view from the outside, or (d) any other rights of USSTC.

Dated:

For U. S. Smokeless Tobacco Company

By: _____

Name: _____

Title: _____

Dated:

State of _____

By: _____

Name: _____

Title: _____