

COMPACT RELATING TO CIGARETTE AND TOBACCO PRODUCT SALES, TAXATION, STAMPING, ESCROW, AND DIRECTORY

THIS COMPACT RELATING TO CIGARETTE AND TOBACCO PRODUCT SALES, TAXATION, STAMPING, ESCROW, AND DIRECTORY (“**Compact**”) is entered into between the State of Nebraska (“**State**”) and the Santee Sioux Nation (“**Nation**”). The State and the Nation are each referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**.”

Recitals

WHEREAS, Neb. Rev. Stat. § 77-2602.06 authorizes the Governor of the State of Nebraska, or his or her designated representative, to negotiate and execute an agreement with the governing body of any federally recognized Indian tribe within the State of Nebraska concerning the collection and dissemination of any Cigarette Tax or other Tobacco Product Tax, or Cigarette Escrow owed, on Sales of Cigarettes or Tobacco Products made or Sold on an Indian tribe’s Indian Country;

WHEREAS, the Nation is a federally-recognized Indian tribe possessing and exercising inherent sovereign powers of self-government, as defined and recognized by treaties, federal laws, and federal court decisions;

WHEREAS, the State is a state within the United States of America possessing and exercising full powers of state government, as defined and recognized by the United States Constitution, federal laws, federal court decisions, the Nebraska Constitution, State laws, and State court decisions;

WHEREAS, the Nation is situated on and occupies Indian Country situated within the geographical borders of the State;

WHEREAS, both the State and the Nation recognize that entry into this Compact is not intended to, and shall not be construed to, cause the sovereignty of either to be diminished;

WHEREAS, it is in the best interests of both the State and the Nation to prevent disputes between the Parties regarding the Sale of Cigarettes and Tobacco Products, including but not limited to the application of the Cigarette Escrow and Directory Laws and the Cigarette Tax and Stamp Laws, by the Nation, any Nation Affiliate, or any Retail Dealer or Wholesale Dealer located within the Nation’s Indian Country located within the geographical boundaries of the State;

WHEREAS, the State recognizes that the Nation incurs certain economic costs in assisting State in collecting its Cigarette and Tobacco Product Taxes and that the terms of this Compact are intended to alleviate such economic costs to the Nation;

WHEREAS, the State and the Nation recognize the financial, cultural, educational, and economic contributions of each other;

WHEREAS, the State and the Nation respect the sovereignty of each other, and recognize and support each other’s governmental responsibilities to provide for and govern its citizens, members,

and territory; the State recognizes the Nation's inherent sovereign right to existence, self-government, and self-determination; and the Nation recognizes the State's inherent sovereign right to existence, self-government, and self-determination;

WHEREAS, the Parties are of the opinion that cooperation between the Nation and the State is mutually productive and beneficial and recognize the need to develop and maintain good Nation-to-State governmental relations.

Compact

NOW, THEREFORE, in consideration of the mutual promises and valuable consideration contained herein the receipt and sufficiency of which is hereby acknowledged, the State through Pete Ricketts, Governor and Doug Peterson, Attorney General, and the Nation through its Tribal Council, enter into this Compact for the mutual benefit of the State and the Nation as follows:

ARTICLE I DEFINITIONS

Section 1. Definitions. Whenever used in this Compact, the following capitalized words and phrases shall have the following meanings:

1.01. Affiliate.

Affiliate means a Person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another Person. The terms owns, is owned, and ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more.

1.02. Brand Family.

Brand Family means all styles of Cigarettes Sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, menthol, lights, kings, and 100s, and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a known brand of Cigarettes.

1.03. Cigarette.

Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a Cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette described in subdivision (a) of this section.

The term Cigarette includes RYO Cigarettes unless otherwise specified.

1.04. Cigarette Escrow.

Cigarette Escrow means the amount of money a TPM may be required to place into a Qualified Escrow Fund pursuant to the requirements on Neb. Rev. Stat. § 69-2703.

1.05. Cigarette Escrow and Directory Laws.

Cigarette Escrow and Directory Laws means Neb. Rev. Stat. §§ 69-2701 through 69-2711, including any rules or regulations adopted thereunder.

1.06. Cigarette Retail License Laws.

Cigarette Retail License Laws means Neb. Rev. Stat. §§ 28-1418 through 28-1429.03.

1.07. Cigarette Tax.

Cigarette Tax means the excise tax on Cigarettes levied by Neb. Rev. Stat. § 77-2602.

1.08. Cigarette Tax and Stamp Laws.

Cigarette Tax and Stamp Laws means Neb. Rev. Stat. §§ 77-2601 through 77-2622, including any rules or regulations adopted thereunder.

1.09. Consumer.

Consumer means any Person not having a license as provided for in Neb. Rev. Stat. §§ 28-1418 to 28-1429.03 to sell Cigarettes or Tobacco Products who purchases or receives Cigarettes for final use or consumption, and upon whom the incidence of the tax levied by Neb. Rev. Stat. Chapter 77, article 26, is declared to be on according to Neb. Rev. Stat. § 77-2602.01.

1.10. Compact.

Compact shall have the meaning set forth for such term in the initial paragraph.

1.11. Directory.

Directory means the Directory compiled by the Tax Commissioner in accordance with Neb. Rev. Stat. § 69-2706.

1.12. Days.

Days means calendar days unless specified otherwise.

1.13. Effective Date.

Effective Date means the date by which both the State and the Nation have executed this Compact.

1.14. Exempt Transactions.

Exempt Transactions are (a) Cigarette Sales on a federal installation in a transaction that is exempt from the Cigarette tax under federal law, and (b) Cigarette Sales on an Indian tribe's Indian Country to its tribal members where the Cigarette Tax is precluded by federal law.

1.15. Importer.

Importer means any Person in the United States to whom non-federal-excise-tax-paid Cigarettes manufactured in a foreign country are shipped or consigned, any person who removes Cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse, or any person who smuggles or otherwise unlawfully brings Cigarettes into the United States.

1.16. Indian Country.

Indian Country means (a) all land in the State within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of this State, including all lands owned in trust by the United States for the benefit of the Nation, and (c) all Indian allotments in this State, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

1.17. Indian tribe.

Indian tribe means any Indian tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

1.18. Licensed Retail Dealer

Licensed Retail Dealer means a Retail Dealer who is licensed according to Neb. Rev. Stat. §§ 28-1420 to 28-1422.

1.19. Licensed Wholesale Dealer

Licensed Wholesale Dealer means a Wholesale Dealer who is licensed according to Neb. Rev. Stat. § 28-1423.

1.20. MSA.

MSA, an acronym for the Master Settlement Agreement, means the settlement agreement entered into in November 1998 between the State and certain TPMs, and related documents to such agreement.

1.21. Nation.

Nation shall have the meaning set forth for such term in the initial paragraph.

1.22. NPM.

NPM, an acronym for Nonparticipating Manufacturer, means any TPM that is not a PM.

1.23. NPMASA.

NPMASA, an acronym for the NPM Adjustment Settlement Agreement, means the settlement agreement entered into in October 2017 between the State and certain TPMs, and related documents to such agreement.

1.24. Package.

Package means any pack or other container in which individual Cigarettes are wrapped or boxed on which a Stamp required by either Neb. Rev. Stat. §§ 77-2603 or 77-2603.01 could be applied consistent with and as required by Neb. Rev. Stat. §§ 69-2701 to 69-2711 and 77-2601 to 77-2622 that contains one or more individual Cigarettes for sale. The term Package does not include a container of multiple Packages. A container in which less than twenty Cigarettes are wrapped or boxed is considered a Package of Cigarettes.

1.25. Party or Parties.

Party or Parties shall have the meaning set forth for such term in the initial paragraph.

1.26. Person.

Person means and includes every individual, natural person, firm, association, joint-stock company, partnership, limited liability company, syndicate, corporation, committee, trustee, or other legal entity, organization, or group of Persons, including any Indian tribe or instrumentality thereof.

1.27. Purchase.

Purchase means any acquisition in any manner or by any means for any consideration. The term Purchase includes transporting or receiving product in connection with a Purchase.

1.28. Qualified Escrow Fund.

Qualified Escrow Fund means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any TPM and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the TPM that places such funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with Neb. Rev. Stat. § 69-2703(2)(b).

1.29. Retail Dealer.

Retail Dealer means every Person, other than a Wholesale Dealer, who Sells Cigarettes and/or Tobacco Products in this State irrespective of quantity, amount, or number of Sales thereof.

1.30. Retail Inspectors.

Retail Inspector means an inspector authorized by the Tax Commissioner to enforce the Cigarette Tax and Stamp Laws, Cigarette Escrow and Directory Laws, and Cigarette Retail License Laws by inspecting Cigarettes offered for Sale by, or held in the inventory of, Retail Dealers or Wholesale Dealers to determine whether Cigarettes bear a complete, readable Stamp and are Directory compliant.

1.31. RYO Cigarette.

RYO Cigarette means roll-your-own tobacco (“RYO”) cigarettes (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, Consumers as tobacco for making Cigarettes). Nine-hundredths of an ounce of RYO shall constitute one individual Cigarette.

1.32. Sale.

Sale means any transfer, exchange, or barter in any manner or by any means for any consideration. Sale includes distributing or shipping product in connection with a Sale. The use of Sale in any tense, mood, or voice (including but not limited to Sell, Selling, or Sold) shall be construed as the use of Sale in all tenses, moods, or voices, as necessary to bring within the scope of this Compact all activities and obligations that might otherwise be construed to be outside the scope of this Compact.

1.33. Stamp.

Stamp means any devices, stamps, labels, or prints manufactured, printed, or made as prescribed by the Tax Commissioner in accordance with Neb. Rev. Stat. § 77-2603 or as agreed to between the State and an Indian tribe in accordance with Neb. Rev. Stat. § 77-2603.01 to indicate that the Cigarette Tax has been pre-paid. The term Stamp includes decalcomania tax stamps.

1.34. Stamped Cigarettes.

Stamped Cigarettes means any Cigarettes that are contained in a Package bearing a Stamp as required under Neb. Rev. Stat. §§ 77-2603 or 77-2603.01.

1.35. Stamping Agent.

Stamping Agent means a Person that is authorized to affix stamps to packages or other containers of Cigarettes under Neb. Rev. Stat. §§ 77-2603 or 77-2603.01 or any Person that is required to pay the tobacco tax imposed pursuant to Neb. Rev. Stat. § 77-4008 on RYO Cigarettes.

1.36. State.

State shall have the meaning set forth for such term in the initial paragraph.

1.37. Tax Commissioner.

Tax Commissioner means the Tax Commissioner of the State of Nebraska.

1.38. Tobacco Product.

Tobacco Product means (a) cigars, (d) cheroots, (c) stogies, (d) periques, (e) granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, (f) snuff, (g) snuff flour, (h) cavendish, (i) plug and twist tobacco, (j) fine cut and other chewing tobacco, (k) shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and (l) other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise or both for chewing and smoking. Tobacco Product does not include Cigarettes; however, Tobacco Product does include RYO Cigarettes unless otherwise specified.

1.39. Tobacco Product Tax.

Tobacco Products Tax means the excise tax on Tobacco Products levied by Neb. Rev. Stat. § 77-4008.

1.40. Tobacco Product Tax Laws.

Tobacco Product Tax Laws means Neb. Rev. Stat. §§ 77-4001 through 77-4025, including any rules or regulations adopted thereunder.

1.41. Tobacco Product Manufacturer.

Tobacco Product Manufacturer (“TPM”) means any Person that after April 29, 1999, directly and not exclusively through any Affiliate:

- (a) manufactures Cigarettes anywhere that such manufacturer intends to be Sold in the United States, including Cigarettes intended

to be Sold in the United States through an importer (except when such importer is an original participating manufacturer (as that term is defined in the MSA) that will be responsible for the payments under the MSA with respect to such Cigarettes as a result of the provisions of subsection II(mm) of the MSA and that pays the taxes specified in subsection II(z) of the MSA, and provided that the manufacturer of such Cigarettes does not market or advertise such Cigarettes in the United States);

(b) is the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer does not intend to be Sold in the United States; or

(c) becomes a successor of an entity described in subdivision (a) or (b) of this section.

The term TPM does not include an Affiliate of a TPM unless such Affiliate itself falls within any of subdivisions (a) through (c) of this section.

1.42. Units sold.

Units sold means the number of individual Cigarettes Sold in the State by the applicable TPM, whether directly or through a Stamping Agent, Wholesale Dealer, Retail Dealer, distributor, retailer, or similar intermediary or intermediaries, during the year in question, in Packages required to bear a Stamp pursuant to Neb. Rev. Stat. §§ 77-2603 or 77-2603.01 or, in the case of RYO Cigarettes, on which the Tobacco Product Tax is due pursuant to Neb. Rev. Stat. § 77-4008.

1.43. Unstamped Cigarettes.

Unstamped Cigarettes means any Cigarettes that are not contained in a Package bearing a stamp as required under Neb. Rev. Stat. §§ 77-2603 or 77-2603.01.

1.44. Wholesale Dealer.

Wholesale Dealer means any Person who Sells Cigarettes and/or Tobacco Products to Retailer Dealers, other than branch stores operated by or connected with such Wholesale Dealer, for purposes of resale.

Section 2. Other Definitional Provisions.

2.01. Other Capitalized Words, Terms, and Phrases.

Unless otherwise specifically noted in this Compact, any capitalized word, term, and/or phrase used in this Compact but not otherwise expressly defined in this Compact shall have the same meaning as the definition provided for such word or term in Nebraska Revised Statutes §§

28-1418 through 28-1429.03, 69-2701 through 69-2711, 77-2601 through 77-2622, and 77-4001 through 77-4025 as in effect on the Effective Date.

2.02. Citations.

The citation or reference to any State statute or regulation in this Compact refers to the version in effect on the Effective Date, unless otherwise specifically provided herein or unless the Parties specifically agree in writing to a modification of the Compact.

2.03. Plurals.

The use of the singular form of any word shall be taken to mean the plural as well as the singular, and the use of the plural form of any word shall be taken to mean the singular as well as the plural.

ARTICLE II PURPOSE AND DURATION

Section 3. Purpose.

3.01. Purpose of Compact.

The purpose of this Compact is to prevent disputes between the Parties regarding the Sale of Cigarettes and Tobacco Products, including but not limited to the application of the Cigarette Escrow and Directory Laws and the Cigarette Tax and Stamp Laws, by the Nation, any Nation Affiliate, or any Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State.

3.02. Scope of Compact.

Unless otherwise specifically stated, this Compact shall apply only to Cigarettes and Tobacco Products Sold in the Nation's Indian Country.

3.03. Limitation of Purpose.

Nothing in this Compact shall be deemed to authorize the State to regulate or tax the Nation, its members, or any Nation Affiliate or to interfere with the Nation's government or internal affairs. This Compact shall not alter, limit, diminish, or preempt Nation, federal, or State sovereignty, authority, civil adjudicatory jurisdiction, or criminal jurisdiction, except as expressly provided in Article III, Sections 5 through 11 and Article IV, Sections 12 through 13 of this Compact. This Compact shall not require the Nation, any Nation Affiliate, or any Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State to obtain or maintain any license, or otherwise submit to any jurisdiction, according to the Nebraska Revised Statutes, except as expressly provided in Article III, Sections 5 through 11 and Article IV, Sections 12 through 13 of this Compact.

Section 4. Duration.

4.01. Perpetual Duration.

This Compact shall commence on the Effective Date. Its term shall be perpetual, subject to the provisions for early termination set forth in Article II, Section 4.02 through 4.07 of this Compact. Nothing in this Compact shall prevent the Parties from establishing an earlier termination date by written agreement or by otherwise subsequently modifying this Compact as set forth in Article V, Section 19 of this Compact.

4.02. Nation's Right to Early Termination.

Notwithstanding any provision of this Compact to the contrary, the Nation may propose negotiation of an amendment to this Compact based upon any provision of any other tax agreement compact between the State and any other Indian tribe regarding the Cigarette Escrow and Directory Laws and the Cigarette Tax and Stamp Laws which the Nation desires to include as a provision in this Compact. The Parties shall attempt to negotiate amendment to this Compact for a period of not less than 90 Days following the Nation's written notice to the State of the Nation's desire to initiate such negotiations. Such amendment shall be incorporated in the manner prescribed by Article V, Section 19 of this Compact, and the State's approval shall not be unreasonably withheld.

The Parties acknowledge that the purpose of such negotiations would be to amend this Compact in a manner acceptable to the Parties that would permit the Nation to secure the same benefits or privileges secured by another Indian tribe having negotiated a separate tax agreement compact regarding the Cigarette Escrow and Directory Laws and the Cigarette Tax and Stamp Laws. If the Parties are unable to negotiate such amendment within such negotiation period, the Nation may terminate this Compact after two weeks from the date of delivering written notice of intention to do so to the State. Termination of this Compact pursuant to this section shall not be subject to the dispute resolution provisions of Article IV, Section 13 of this Compact.

4.03. State's Right to Early Termination.

In the event that the State is subject to a final, binding arbitration award or decision of a court of competent jurisdiction that the State is noncompliant or has violated the terms of the MSA or the NPMASA due to the State's compliance with its obligations under this Compact, the Parties shall attempt to negotiate amendments to this Compact for a period of not less than 90 Days following the State's written notice to the Nation of the State's desire to initiate such negotiations. Such amendments shall be incorporated in the manner prescribed by Article V, Section 19 of this Compact.

The Parties acknowledge that the purpose of such negotiations would be to amend this Compact in a manner acceptable to the Parties that would permit the State to comply with the terms and provisions of this Compact, the MSA, and the NPMASA. If the Parties are unable to negotiate such amendments within such negotiation period, the State may terminate this Compact after two weeks from the date of delivering written notice of intention to do so to the Nation. Termination

of this Compact pursuant to this section shall not be subject to the dispute resolution provisions of Article IV, Section 13 of this Compact.

4.04. Default Termination.

This Compact shall immediately cease and terminate, without notice or other action, as follows:

(a) If the United States federal government, or its appropriate department or agency, rescinds or otherwise terminates the recognition of the Nation as a federally recognized Indian tribe;

(b) If the Nation (1) abandons or otherwise acts in a manner evidencing the fact that it has given up or terminated its status as a federally recognized Indian tribe; or if a court of competent jurisdiction renders a judgment, and that judgment becomes final, declaring that the Nation is not a federally recognized Indian tribe, (2) has abandoned or otherwise terminated such status, (3) has its status rescinded or terminated, or (4) has abandoned, given up, terminated, or no longer possesses its entitlement to certain Cigarette excise tax exemptions that are the subject of this Compact.

4.05. Suspension or Termination by Failure to Comply.

In the event that one of the Parties to this Compact fails to comply with any term, condition, covenant, or requirement of this Compact, or is otherwise in breach of this Compact, the other Party may declare this Compact either (a) suspended or (b) terminated.

Prior to suspending or terminating this Compact, in whole or in part, a Party shall deliver a written notice to the other Party which identifies the conduct, action, and/or inaction that violates this Compact. The Party violating this Compact shall have 90 Days from the date of receipt of such notice in which to cure the default or breach of this Compact and to provide the other Party with written notice of such cure. At the end of such 90 Day period, if the default or breach complained of is not cured then this Compact shall immediately be suspended or terminated according to the terms of the notice of default or breach.

4.06. Suspension or Termination by Change in State Law.

In the event that the Cigarette Retail License Laws, Cigarette Escrow and Directory Laws, and/or Cigarette Tax and Stamp Laws change subsequent to the Effective Date in any material manner that impacts the rights of the Parties, then any Party may declare this Compact either (a) suspended or (b) terminated.

Prior to declaring a suspension or termination of this Compact, in whole or in part, a Party shall deliver a written notice to the other Party which specifically identifies the change(s) in law, clearly and concisely indicates the manner in which the rights of the Party have been materially

altered, and requests that the Parties enter into negotiations to amend this Compact. The Party receiving the notice requesting negotiations shall respond within 14 Days to affirmatively begin negotiations. If the Parties are unable to reach a good faith resolution to the negotiations within 90 Days after negotiations have affirmatively begun, then this Compact may be declared suspended or terminated according to the terms of the notice of intention to begin negotiations.

4.07. Suspension or Termination by Change in Nation Law.

In the event that the Nation enacts laws subsequent to the Effective Date that materially overlap with the requirements of Article III, Sections 5 through 11 of this Compact, then any Party may declare this Compact either (a) suspended or (b) terminated.

Prior to suspending or terminating this Compact, in whole or in part, a Party shall deliver a written notice to the other Party which identifies the change(s) in law, clearly and concisely indicates the manner in which the rights of the Party have been materially altered, and requests that the Parties enter into negotiations to amend this Compact. The Party receiving the notice requesting negotiations shall respond within 14 Days to affirmatively begin negotiations. If the Parties are unable to reach a good faith resolution to the negotiations within 90 Days after negotiations have affirmatively begun, then this Compact may be declared suspended or terminated according to the terms of the notice of intention to begin negotiations.

ARTICLE III RULES AND MONEY

Section 5. State Cigarette Compliance Laws.

5.01. Cigarette Retail License Laws.

For purposes of this Compact, and subject to the terms of the Compact, the Cigarette Retail License Laws apply for Cigarette Sales conducted by the following:

- (a) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries;
- (b) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located outside the Nation's Indian county, and located within the State's geographical boundaries; and,
- (c) all Retail Dealers and Wholesale Dealers owned by any Person other than the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries.

5.02. Cigarette Tax and Stamp Laws.

For purposes of this Compact, and subject to the terms of the Compact, the Cigarette Tax and Stamp Laws, including but not limited to reporting required by Neb. Rev. Stat. §§ 77-2604 and 77-2604.01, apply for Sales of Cigarettes, except RYO Cigarettes, conducted by the following:

- (a) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries;
- (b) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located outside the Nation's Indian county, and located within the State's geographical boundaries; and,
- (c) all Retail Dealers and Wholesale Dealers owned by any Person other than the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries.

5.03. Tobacco Product Tax Laws.

The Tobacco Product Tax Laws, including but not limited to submission of returns as required by Neb. Rev. Stat. § 77-4014, apply for Sales of Tobacco Products conducted by the following:

- (a) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries;
- (b) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located outside the Nation's Indian county, and located within the State's geographical boundaries; and,
- (c) all Retail Dealers and Wholesale Dealers owned by any Person other than the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries.

5.04. Cigarette Escrow and Directory Laws.

The Cigarette Escrow and Directory Laws, including but not limited to reporting required by Neb. Rev. Stat. §§ 69-2708 and 69-2710.01, apply for Cigarette Sales conducted by the following:

(a) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries;

(b) all Retail Dealers and Wholesale Dealers owned by the Nation or any Nation Affiliate, located outside the Nation's Indian county, and located within the State's geographical boundaries; and,

(c) all Retail Dealers and Wholesale Dealers owned by any Person other than the Nation or any Nation Affiliate, located within the Nation's Indian Country, and located within the State's geographical boundaries.

Section 6. Reporting. The Nation, Nation Affiliate, or Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State shall obtain such State licenses or permits as required by applicable law or this Compact. Such licenses or permits shall not be unreasonably denied.

Section 7. No Other Licenses. The Nation agrees not to license or otherwise authorize any other Person to Sell Cigarettes in violation of the terms of this Compact.

Section 8. Compliance Checks.

8.01. Purpose of Compliance Checks.

The purpose of Article III, Section 8 of this Compact is to provide a process for regular verification of compliance with the requirements of this Compact. The verification process is intended to ensure continued compliance with Article III, Sections 5 through 11 in the same manner as with any other Person conducting the Sale of Cigarettes and Tobacco Products that is not the Nation, any Nation Affiliate, or any Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State.

8.02. Compliance Checks.

The Nation will allow the State's Retail Inspectors to conduct routine compliance checks in accordance with Attachment A.

8.03. Compliance Check Penalties.

The Parties agree that any violations of the Nation's obligations under this Compact discovered as a result of these compliance checks will be subject to penalties as provided in Attachment A, as well as a pro rata reduction of the next-occurring tax remittance amounts due under Article III, Section 10.03 of this Compact per Package of Cigarettes seized.

Section 9. Review. If evidence supporting reasonable suspicion of Sales of Cigarettes in violation of this Compact comes to the attention of the State, then the State may request any

documentation the State is entitled to review in normal circumstances under the Cigarette Tax and Stamp Laws and the Cigarette Escrow and Directory Laws. The State shall provide notice of the election to request and review such documentation to the Nation and, concurrent with the delivery of such request(s) to the Retail Dealer or Wholesale Dealer being reviewed, provide a copy of the document request(s) to the Nation.

Section 10. Tax and Escrow.

10.01. Collection of Tax.

All Sales of Cigarettes and Tobacco Products governed by the terms of this Compact shall comply with the statutes, rules, and regulations regarding payment of the Cigarette Tax and Tobacco Products Tax.

10.02. No Tax Refund with Form 68.

Any Retail Dealer or Wholesale Dealer conducting Sales of Cigarettes governed by this Compact may not file a Department of Revenue Form 68, or in any other way attempt to receive a refund, or avoid payment, of the Cigarette Tax or the Tobacco Product Tax. The prohibition on the use of the Form 68, or any other tax refund or avoidance, begins for all Cigarettes and Tobacco Products Sold 1 Day after the Effective Date.

10.03. Remittance of Tax.

Beginning 1 Day after the Effective Date, the State will pay to the Nation 75% of the Cigarette Tax and 75% of the Tobacco Product Tax collected during each reporting period within 60 Days after the close of that reporting period for all Cigarettes Sold by certain Retail Dealers or Wholesale Dealers having paid the Cigarette Tax or the Tobacco Product Tax for Cigarettes Sold to Consumers. If payment is not made within 60 Days, payment shall include interest on the payment amount at the rate specified in Neb. Rev. Stat. § 45-104.02. The State shall retain the difference/remainder of the Cigarette Tax and the Tobacco Product Tax and the Nation, any Nation Affiliate, and any Retail Dealer or Wholesale Dealer conducting Sales of Cigarettes shall have no further claim to that difference/remainder.

The Nation and the State agree that this Cigarette Tax remittance percentage constitutes a fair and equitable promise between the Parties. Notwithstanding any provision of this Compact to the contrary, either Party may propose negotiation of an amendment to this Compact regarding this Cigarette Tax remittance percentage, but not more than once every calendar year. The Parties shall attempt to negotiate amendment to this Compact for a period of not less than 90 Days following a Party's written notice of desire to initiate such negotiations. Such amendment shall be incorporated in the manner prescribed by Article V, Section 19 of this Compact, and neither Party's approval shall be unreasonably withheld.

The Parties acknowledge that the purpose of such negotiations would be to amend this Compact in a manner acceptable to the Parties that would allow this Cigarette Tax remittance percentage to continue to constitute a fair and equitable promise between the Parties. If the Parties

are unable to negotiate such amendment within such negotiation period, neither Party may use such negotiations as a basis to terminate this Compact.

Further, the Nation shall indemnify, by debit against the next-occurring Cigarette Tax remittance payment, the State for any claims made to the Tax Commissioner after the Effective Date for any refund of the Cigarette Tax paid by the ultimate consumer or user of Cigarettes in the Nation's Indian Country which the Tax Commissioner does process and grant. The Nation may request to review the relevant refund request and payment records and the State shall not unreasonably withhold such documents.

10.04. Cigarette Tax Remittance Limitations.

The Cigarette Tax remittance program established by Article III, Section 10.03 of this Compact shall apply for Cigarettes Sold by any Retail Dealer, whether owned by the Nation, any Nation Affiliate, or any other Person, in existence on or after the Effective Date, provided that such Retail Dealer is located within the Nation's Indian Country as such Indian Country was in existence on the Effective Date, with the sole exception of any Retail Dealer located within such land as described in Attachment B.

10.05. Tobacco Product Tax Remittance Limitations.

The Tobacco Product Tax remittance program established by Article III, Section 10.03 of this Compact shall apply for Cigarettes Sold by any Retail Dealer or Wholesale Dealer, whether owned by the Nation, any Nation Affiliate, or any other Person, in existence on or after the Effective Date, provided that such Retail Dealer or Wholesale Dealer is located within the Nation's Indian Country as such Indian Country was in existence on the Effective Date, with the sole exception of any Retail Dealer located within such land as described in Attachment B.

10.06. Cigarette Escrow Limitations.

The Nation understands that all amounts of Cigarette Escrow placed into Qualified Escrow Funds as a consequence of Sales of Cigarettes governed by this Compact remain held within those Qualified Escrow Funds until such certain conditions are met as delineated in the Cigarette Escrow and Directory Laws. These amounts of Cigarette Escrow are not immediately received by the State and are not equal or similar to the funds received by the State annually pursuant to the MSA.

10.07. No Other Limitations.

This Compact does not provide any restrictions, limitations, conditions, or covenants on the Nation's decisions about what to do with the money provided to the Nation by the State under the remittance provisions of Article III, Section 10.03 of this Compact.

10.08. No Other Tax or Stamp

The Nation agrees not to issue or pass an ordinance, resolution, or code authorizing or attempting to authorize a tax to be used in lieu of the Cigarette Tax and the Tobacco Product Tax.

The Nation agrees not to issue or pass an ordinance, resolution, or code authorizing or attempting to authorize a tax stamp to be used in lieu of the Cigarette Tax Stamp.

Section 11. Nation Ordinance. The Nation shall pass an ordinance, resolution, or code requiring compliance with all of the terms of this Compact for any and all Retail Dealers and Wholesale Dealers, regardless of whether they are owned by the Nation, any Nation Affiliate, or any other Person. This ordinance, resolution, or code shall also explicitly contain the Nation's intent to enter into this Compact, agreement with the Article III, Sections 5 through 11 compliance terms, agreement with the Article III, Section 10.03 indemnification provision, agreement with the Article IV, Section 12 waiver of sovereign immunity, and agreement with the Article IV, Section 13 dispute resolution provisions.

ARTICLE IV WAIVERS AND DISPUTES

Section 12. Mutual Waiver of Sovereign Immunity.

12.01. Limited Waivers by Nation.

The Nation, including any Nation Affiliate engaged in Selling Cigarettes and/or Tobacco Products, hereby waives its sovereign immunity, its right to require exhaustion of tribal remedies, and its right to seek tribal remedies with respect to any dispute regarding this Compact and subject to the following specific limitations:

(a) The limited waiver granted pursuant to this Compact shall encompass (1) claims which seek monetary relief for direct damages attributable to the Nation's or any Nation Affiliate's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Article IV, Section 13.04 of this Compact, (2) claims for equitable remedies, and (3) actions to compel dispute resolution as provided in this Compact.

(b) The limited waiver granted pursuant to this Compact shall not encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary, or reliance damages (including but not limited to lost or anticipated revenues, lost business opportunities, or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against the Nation or any Nation Affiliate, and neither the Nation nor any Nation Affiliate shall be liable for any such damages.

(c) The limited waiver granted pursuant to this Compact shall commence upon the Effective date of this Compact and shall continue until the date of its termination or cancellation pursuant to the terms of this Compact, except the limited waiver shall remain effective for any proceedings then pending or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.

(d) The limited waiver granted pursuant to this Compact is granted to and for the sole benefit of the State and may not be assigned or granted to any other individual or entity.

(e) The Nation agrees to not revoke its limited waiver of sovereign immunity contained in this Compact. In the event of any such revocation, the State may, at its option, declare this Compact terminated for breach by the Nation.

(f) Any monetary award or awards against the Nation or any Nation Affiliate shall be limited in the aggregate to an amount equal to total tax revenues and gross profits actually received by the Nation or Nation Affiliates, or due and owed, attributable to the Sale of Cigarettes during the duration of this Compact.

12.02. Limited Waivers by State.

The State hereby waives its sovereign immunity subject to the following specific limitations:

(a) The limited waiver granted pursuant to this Compact shall encompass (1) claims which seek monetary relief for direct damages attributable to State's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Article IV, Section 13.04 of this Compact, (2) claims for equitable remedies, and (3) actions to compel dispute resolution as provided in this Compact.

(b) The limited waiver granted pursuant to this Compact shall not encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary, or reliance damages (including but not limited to lost or anticipated revenues, lost business opportunities, or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against the State, and the State shall not be liable for any such damages.

(c) The limited waiver granted pursuant to this Compact shall commence upon the Effective date of this Compact and shall continue until the date of its termination or cancellation pursuant to the term of this Compact, except the limited waiver shall remain effective for any proceedings then pending or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.

(d) The limited waiver granted pursuant to this Compact is granted to and for the sole benefit of the Nation, not any Nation Affiliate, and may not be assigned or granted to any other individual or entity.

(e) The State agrees to not revoke its limited waiver of sovereign immunity contained in this Compact. In the event of any such revocation, the Nation may, at its option, declare this Compact terminated for breach by the State.

(f) Any monetary award or awards against the State shall be limited in the aggregate to an amount equal to total Cigarette Tax amounts actually received by the State attributable to the Sale of Cigarettes by the Nation or Nation Affiliates during the duration of this Compact.

Section 13. Dispute Resolution.

13.01. Negotiation.

In the event of a dispute arising in the interpretation or performance of this Compact, the disputing Party shall provide notice regarding such dispute. The notice shall provide a concise summary of the nature of the dispute. The Parties shall attempt to negotiate a resolution to the dispute for a period of not less than 90 Days following the disputing Party's notice. If the Parties are unable to negotiate an amicable resolution of any such dispute within the 90 Days following the notice, or such longer time period as the Parties may mutually agree to in writing, either Party may submit the matter to State or federal court for final resolution, as appropriate.

13.02. State Emergency Clause.

In the event of a dispute arising in the context of Sales of Cigarettes by the Nation, a Nation Affiliate, or a Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State involving an allegation by the State of a violation of the Cigarette Escrow and Directory Laws, including but not limited to Sales of Cigarettes not included on the Directory, the State may disregard the requirements of Article IV, Section 13.01 of this Compact and proceed immediately with Article IV, Section 13.04 of this Compact.

13.03. Nation Emergency Clause.

In the event of a dispute arising in the context of Sales of Cigarettes by the Nation, a Nation Affiliate, or a Retail Dealer or Wholesale Dealer located within the Nation's Indian Country within the geographical boundaries of the State involving an allegation by the Nation of a violation of Article III, Section 8 of this Compact, the Nation may disregard the requirements of Article IV, Section 13.01 of this Compact and proceed immediately with Article IV, Section 13.04 of this Compact.

13.04. Litigation.

The State and the Nation agree that the Lancaster County District Court and, to the extent permitted by federal law, the United States District Court for the District of Nebraska (a) have jurisdiction over the subject matter of the enforcement of the Cigarette Tax and Stamp Laws and the Cigarette Escrow and Directory Laws, and (b) shall retain jurisdiction for the purposes of enforcing this Compact. Nothing herein shall be deemed to waive the right of the Nation or the State to remove any action filed in Lancaster County District Court to the United States District Court for the District of Nebraska, to the extent permitted by federal law.

Any Party, subject to the notice and negotiation provisions of Article IV, Section 13.01 of this Compact and the emergency clause provisions of Article IV, Sections 13.02 and 13.03 of this Compact, may apply to the Lancaster County District Court or, to the extent permitted by federal law, the United States District Court for the District of Nebraska, to enforce the terms, including but not limited to interpretation, declaration, and performance, of this Compact with respect to disputes, alleged violations, or alleged breaches. The Parties shall consider in good faith whether

the Party alleged to have violated this Compact has taken appropriate and reasonable steps to cause the alleged violation to be cured, unless such Party has been guilty of a pattern of violations of like nature. In the event that the Lancaster County District Court or the United States District Court for the District of Nebraska determines that any Party violated this Compact, the Parties may request any and all relief available pursuant to applicable law.

13.05. Right of Review.

All orders and other judicial determinations made by the Lancaster County District Court or the United States District Court for the District of Nebraska in connection with this Compact shall be subject to all available appellate review, and nothing in this Compact shall be deemed to constitute a waiver of any right to any such review.

**ARTICLE V
MISCELLANEOUS**

Section 14. Counterpart execution.

This Compact may be executed in counterparts. Electronically transmitted, facsimile, or photocopied signatures shall be considered valid as of the date delivered, although the original signature pages shall thereafter be provided to the State.

Section 15. Non-Severability.

The terms, provisions, agreements, covenants, and restrictions of this Compact are non-severable and, unless otherwise agreed to by the Parties, this Compact shall terminate if any term, provision, agreement, covenant, or restriction in this Compact is held by a court of competent jurisdiction or other authority to be invalid, void, or otherwise unenforceable.

In the event either Party has actual knowledge that the validity or enforceability of this Compact or any of its terms, provisions, agreements, covenants, or restrictions are being challenged in a court of competent jurisdiction or other authority such Party shall transmit written notice thereof to the other Party within three Days of acquiring such actual knowledge. The Parties agree to reasonably cooperate with each other and oppose any such challenge.

Section 16. Survival.

Upon termination or cancellation of this Compact the obligations of the Parties to this Compact shall terminate, except that the provisions of Article IV, Sections 12 and 13 shall survive such termination or cancellation.

Section 17. Integration.

This Compact constitutes the entire understanding between the Parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between or among the Parties, with respect to the subject matter contained in this Compact. Subject to

Article II, Section 4, this Compact can only be subsequently amended or modified according to the provisions of Article V, Section 19.

Section 18. Non-Admissibility.

No evidence of the negotiations of this Compact or any drafts of this Compact shall be admissible in any dispute between the Parties as to the meaning of this Compact.

Section 19. Amendment.

This Compact may be amended only by a written instrument executed by all Parties affected by the amendment. The waiver of any rights conferred by this Compact shall be effective only if made by written instrument executed by the waiving Party. The waiver by any Party of any breach of this Compact shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, nor shall such waiver be deemed to be construed as a waiver by any other Party.

Section 20. No Concessions.

By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided within this Compact and solely for purposes of this Compact, the Nation does not concede that the laws of the State, including any taxation or civil regulatory laws, apply to the Nation, its members, or any Nation Affiliate regarding the Sale of Cigarettes and Tobacco Products within the Nation's Indian Country.

By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided within this Compact and solely for purposes of this Compact, the State does not concede that its interests, jurisdiction, or sovereignty as authorized, permitted, or recognized by federal law is diminished, limited, or preempted in any manner.

Section 21. Headings.

The Article, Section, and other headings contained in this Compact are for reference purposes only and shall not affect the meaning or interpretation of this Compact.

Section 22. Construction.

Each Party has received independent legal advice from its attorney(s) of choice and neither Party shall be deemed the author or drafter of this Compact. Therefore, any rule or canon of construction (whether pertaining to contracts, statutes, treaties, or otherwise) holding that in the case of an ambiguity such ambiguity is construed against the author or drafter is not applicable to this Compact.

The language of all parts of this Compact shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties.

It is the intent of the Parties that this Compact shall be construed to reflect that the Parties are of equal stature and dignity and have dealt with each other at arm's length. Accordingly, any statutory or judicial rules or canons concerning the construction of vague or ambiguous terms (whether pertaining to contracts, statutes, treaties, or otherwise) that might otherwise be used in the interpretation or enforcement of this Compact, including construction of ambiguities either in favor of or against the State or the Nation, are not applicable to this Compact and shall not obtain to the benefit or detriment of any Party, nor shall the terms and conditions of this Compact be extended by implication to the benefit or detriment of any Party, it being the intent of the Parties that the construction of this Compact shall be controlled by its express terms and not by implication.

Section 23. No Assignment, No Third-Party Beneficiaries.

This Compact is personal in nature, and no Party may directly or indirectly assign or transfer it by operation of law or otherwise. Nothing in this Compact, express or implied, is intended to or shall confer upon any individual or entity, other than the Parties to this Compact, any right, benefit, or remedy of any nature whatsoever under or by reason of this Compact.

Section 24. Representation.

Each Party represents that this Compact has been duly authorized and, upon the Effective Date, will constitute a valid and binding contractual obligation, enforceable in accordance with its terms, of each of them. The signatories to this Compact expressly represent and warrant that they have the authority to settle and resolve all matters within the scope of this Compact on behalf of their respective Party and their past, present, and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, Affiliates, successors and assigns, and that such signatories are aware of no authority to the contrary. Each Party shall have the right to terminate this Compact if the foregoing representation and warranty is breached or not effectively given by any other Party.

Section 25. Notices.

Except as otherwise expressly provided in this Compact, any notices or communications required or permitted to be given hereunder shall be in writing and shall be sent by manual delivery, overnight courier, or United State certified mail (postage prepaid and return receipt requested) addressed to the respective Party at the address specified below, or at such other address as such Party shall have specified to the other Parties hereto in writing.

If to the Nation:

Santee Sioux Nation
Attention: Tribal Chairman
108 Spirit Lake Ave. W.
Niobrara NE 68760-8605

With copies to:

Conly J. Schulte
Peebles Kidder Bergin & Robinson, LLP
945 Front St.
Louisville CO 80027
cschulte@ndnlaw.com

If to the State:

Nebraska Governor's Office
PO Box 94848
Lincoln, NE 68509
maureen.larsen@nebraska.gov

With copies to:

Office of the Nebraska Attorney General
Attn: Tobacco Enforcement Unit
2115 State Capitol, P.O. Box 98920
Lincoln, NE 68509-8920
ago.tobacco@nebraska.gov

And

Nebraska Department of Revenue
Attn: Policy Section
PO Box 94818-4818
301 Centennial Mall South
Lincoln, Nebraska 68509
rev.bailiff@nebraska.gov

All periods of notice shall be measured from, and such notices or communications shall be deemed to have been given and received on, the date of delivery as evidenced by the signed receipt of such notice or communication by the addressee or its authorized representative.

IN WITNESS WHEREOF, the Parties have executed this Compact as of the respective dates indicated below.

SANTEE SIOUX NATION

By: Kameron Runnels
Kameron Runnels, Vice Chairman

Date: 12-29-2022

STATE OF NEBRASKA

By: _____
Pete Ricketts, Governor

Date: _____

IN WITNESS WHEREOF, the Parties have executed this Compact as of the respective dates indicated below.

SANTEE SIOUX NATION

By: _____
Kameron Runnels, Vice Chairman

Date: _____

STATE OF NEBRASKA

By:  _____
Pete Ricketts, Governor

Date: 1/3/23

ATTACHMENT “A”

Retailer Contraband Cigarette Guidance and Penalty Schedule

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

This guidance document may change with updated information or added examples. The Department recommends you do not print this document. Instead, sign up for the [subscription service](#) at revenue.nebraska.gov to get updates on your topics of interest.

The DOR is responsible for monitoring compliance with Nebraska's cigarette and tobacco laws, including diligent enforcement as required by the Master Settlement Agreement pursuant to Neb. Rev. Stat. §§ 69-2701 to 69-2711, 77-2601 to 77-2622, and 77-4001 to 77-4025. The DOR's diligent enforcement efforts include compliance checks of cigarette and tobacco retailers. This guidance identifies the standard as to what constitutes a complete readable tax stamp, provides a penalty schedule, and replaces the letter issued by DOR in July 2018.

As part of the compliance checks, the DOR inspects for contraband cigarettes. Contraband cigarettes include any:

- Cigarettes on point of sale displays or in your inventory that do not have a Nebraska cigarette tax stamp or are not properly stamped with a complete readable Nebraska tax stamp;
- Cigarettes and roll-your-own (RYO) tobacco that are not listed on the [Nebraska Directory of Certified Tobacco Product Manufacturers and Brands](#) (Directory). The Directory can be viewed on the DOR's website at revenue.nebraska.gov by clicking on "Cigarettes/Other Tobacco Products," and "Nebraska Directory of Certified Tobacco Product Manufacturers and Brands;" and
- Any cigarettes not contained in a package that bears a complete readable Nebraska tax stamp, including loose cigarettes sold individually.

A complete readable tax stamp is a stamp that can be identified as a Nebraska cigarette tax stamp, containing the legible 5-digit stamp number or two thirds (2/3) of the tax stamp. This standard does not apply if the tax stamps exhibit an intent to fraudulently evade tax. The 5-digit stamp number is legible if it can be read or recognized even where there is some flaking of the stamp on or around the 5-digit number. A complete readable tax stamp is required by [Cigarette Tax Regulation 57-006.01](#).

Contraband cigarettes discovered during retail inspections will be confiscated under [Neb. Rev. Stat. § 77-2620](#). Further, the retailer could be subject to civil and criminal penalties, and suspension or revocation of its local license to sell tobacco products.

To ensure compliance with the cigarette and tobacco products tax laws of Nebraska, every retailer that

sells cigarettes and RYO tobacco should implement as a best practice, the following steps:

- Inspect all cigarettes upon receipt to ensure that the cigarettes are properly stamped (see above) with a complete readable Nebraska cigarette tax stamp.
- Do not place any cigarettes on point of sale displays that do not contain a complete readable Nebraska tax stamp.
- Verify that all cigarettes and RYO tobacco products are listed on the Directory.
- Remove all cigarettes from point of sale displays that do not have a complete readable Nebraska cigarette tax stamp and/or are not listed on the Directory and return them to the stamping agent immediately.

The DOR encourages retailers to work with their cigarette stamping agents to avoid issues with cigarettes and RYO tobacco.

The DOR will be using the following penalty schedule for stamping violations and non-directory sales of cigarettes and RYO tobacco products. Offenders are subject to the penalties described in the penalty schedule within a three-year time frame. **Penalties will only apply to packages of cigarettes with no tax stamp, an out-of-state tax stamp, non-directory cigarettes and RYO tobacco products, tax stamps that exhibit an intent to fraudulently evade tax, or where the facts of a particular incident rise to a level warranting a penalty.**

Cigarettes Seized Due to Tax Stamp Application*		Non-directory Product*	
Stamping Agents	Retailers	Stamping Agents	Retailers
1 st Incident: \$25 per package, capped at a total of \$500	1 st Incident: \$5 per package, capped at a total of \$100	1 st Incident: \$500 penalty	1 st Incident: \$500 penalty
2 nd and Subsequent Incidents: \$50 per package, capped at a total of \$1,000	2 nd Incident: \$10 per package, capped at a total of \$250	2 nd Incident: \$1,000 penalty	2 nd Incident: \$1,000 penalty
	3 rd Incident: \$10 per package, capped at a total of \$500	3 rd Incident: \$5,000 penalty	3 rd Incident: \$1,000 penalty

***DOR** is not precluded from commencing revocation proceedings or recommending a case for criminal prosecution when the facts of any incident rise to a level warranting such action. Also, the retailer or stamping agent may attempt to resolve the penalty by filing a [Request for Abatement of Penalty, Form 21](#).

revenue.nebraska.gov
 800-742-7474 (NE and IA) or 402-471-5729
 Nebraska Department of Revenue, PO Box 94818, Lincoln, NE 68509-4818

Supplemental Information Concerning Retail Inspections Performed by DOR

During a typical retail inspection:

- The retail inspector will identify themselves to the clerk, or the manager in the retail location, show identification and explain why they are there.
- The inspector will first look through the cigarettes on the retail shelf looking for packages lacking a complete readable Nebraska cigarette tax stamp and brands not included on the Nebraska Directory.
- Then full cartons of cigarettes, wherever located, are examined for the same violations above.
- If any cigarettes are seized a seized property report is completed and signed by either a cashier or manager.
- Seized cigarettes are placed in an evidence bag.
- Seized cigarettes are transported to the Nebraska State Office Building in Lincoln, NE

ATTACHMENT “B”

**ATTACHMENT B TO
COMPACT RELATING TO CIGARETTE AND TOBACCO PRODUCT SALES,
TAXATION, STAMPING, ESCROW, AND DIRECTORY**

A tract of land lying in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Eleven (11), Township Thirty-Three (33) North, Range One (1) West of the Sixth P.M., Cedar County Nebraska, more particularly described as follows:

Commencing at the South Quarter corner of said Section 11, thence North on the Quarter line N00°00'02"E, a distance of 1319.92 feet; thence N00°00'02"E, a distance of 581.25 feet to a point on said Quarter Line; thence S89°25'49"W, a distance of 17.50 feet; thence S89°25'49"W, a distance of 640.07 feet to the Point-of-Beginning; thence N00°35'57"W, a distance of 610.38 feet; thence N89°31'54"E, a distance of 388.48 feet; thence N89°31'54"E, a distance of 1.52 feet to a point on the Westerly Right-of-Way of U.S. Highway 81; thence S00°36'26"W on said Right-of-Way, a distance of 193.90 feet; thence S20°13'29"W on said Right-of-Way, a distance of 448.80 feet; thence S54°57'24"W on said Right-of-Way, a distance of 37.50 feet; thence S89°25'49"W, a distance of 199.55 feet; thence N00°35'57"W, a distance of 25.00 feet to the Point-of-Beginning, and containing 4.83 acres more or less.

Santee Sioux Nation

TRIBAL COUNCIL HEADQUARTERS

Chairman: Alonzo Denney
Vice Chairman: Kameron Runnels
Treasurer: David Henry
Secretary: Stuart Redwing



108 Spirit Lake Avenue West
Niobrara, NE 68760-7219
Phone: 402-857-2772
Fax: 402-857-2779

RESOLUTION 2023-13 OF THE SANTÉE SIOUX NATION

RESOLUTION AUTHORIZING COMPACT RELATING TO CIGARETTE AND TOBACCO PRODUCT SALES, TAXATION, STAMPING, ESCROW, AND DIRECTORY

WHEREAS, the Santee Sioux Nation (the "Tribe") is a federally recognized Indian Tribe organized pursuant to Section XVI of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), codified at 25 U.S.C. §§ 476, *et seq.*, as amended by the Act of June 15, 1935, (49 Stat. 378); and

WHEREAS, under Article III, Section 1 of the Tribal Constitution, the Tribal Council is the governing body of the Santee Sioux Nation; and

WHEREAS, under Article IV of the Tribal Constitution, the Tribal Council has the power to govern the conduct of persons under the territorial jurisdiction of the Tribe; to regulate commerce within the jurisdictional boundaries of the Tribe or on any after acquired lands, and to manage all economic affairs and enterprises of the Nation; and

WHEREAS, the Tribal Council has been presented with a "Compact Relating to Cigarette and Tobacco Product Sales, Taxation, Stamping, Escrow, and Directory" prepared by the Tribe and the State of Nebraska, a copy of which is attached hereto as "Exhibit A"; and

WHEREAS, the Tribal Council desires to enter into this Compact for the mutual benefit of the Tribe and the State regarding the taxation, stamping, escrow, and directory of cigarette and tobacco sales occurring within the Tribe's jurisdiction.

NOW, THEREFORE BE IT RESOLVED that the Tribal Council hereby approves the attached "Compact Relating to Cigarette and Tobacco Product Sales, Taxation, Stamping, Escrow, and Directory" attached hereto as "Exhibit A," and authorizes

Santee Sioux Nation

108 Spirit Lake Avenue West
Niobrara, NE 68760-7219




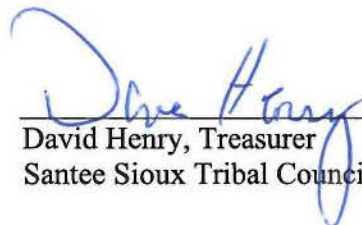
Vice Chairman Kameron Runnels to sign the same on behalf of the Santee Sioux Nation.

CERTIFICATION

This will certify that the foregoing resolution was considered at a Special Meeting of the Santee Sioux Tribal Council of the Santee Sioux Nation, duly called held on the 29th day of December, 2022, and was adopted by a vote of 7 FOR, 0 AGAINST and 1 NOT VOTING OR ABSENT. A quorum of ___ was present.

Dated this 29th day of December, 2022


Kameron Runnels, Vice Chairman
Santee Sioux Tribal Council


David Henry, Treasurer
Santee Sioux Tribal Council

Santee Sioux Nation

TRIBAL COUNCIL HEADQUARTERS

Chairman: Alonzo Denney
Vice Chairman: Kameron Runnels
Treasurer: David Henry
Secretary: Stuart Redwing



108 Spirit Lake Avenue West
Niobrara, NE 68760-7219
Phone: 402-857-2772
Fax: 402-857-2779

RESOLUTION 2023-13a OF THE SANTÉE SIOUX NATION

RESOLUTION AUTHORIZING COMPACT RELATING TO CIGARETTE AND TOBACCO PRODUCT SALES, TAXATION, STAMPING, ESCROW, AND DIRECTORY

WHEREAS, the Santee Sioux Nation (the "Tribe") is a federally recognized Indian Tribe organized pursuant to Section XVI of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), codified at 25 U.S.C. §§ 476, *et seq.*, as amended by the Act of June 15, 1935, (49 Stat. 378); and

WHEREAS, under Article III, Section 1 of the Tribal Constitution, the Tribal Council is the governing body of the Santee Sioux Nation; and

WHEREAS, under Article IV of the Tribal Constitution, the Tribal Council has the power to govern the conduct of persons under the territorial jurisdiction of the Tribe; to regulate commerce within the jurisdictional boundaries of the Tribe or on any after acquired lands, and to manage all economic affairs and enterprises of the Nation; and

WHEREAS, the Tribal Council has been presented with a "Compact Relating to Cigarette and Tobacco Product Sales, Taxation, Stamping, Escrow, and Directory" prepared by the Tribe and the State of Nebraska, a copy of which is attached hereto as "Exhibit A"; and

WHEREAS, the Tribal Council intends to enter into this Compact for the mutual benefit of the Tribe and the State regarding the taxation, stamping, escrow, and directory of cigarette and tobacco sales occurring within the Tribe's jurisdiction; and

WHEREAS, the Tribe shall require compliance with all the terms of this Compact for any and all Retail Dealers and Wholesale Dealers, regardless of whether they are owned by the Tribe, any Tribal Affiliate, or any other Person; and

Santee Sioux Nation

108 Spirit Lake Avenue West
Niobrara, NE 68760-7219



WHEREAS, the Tribe agrees to the Compliance Terms of the Compact pursuant to Article III, Sections 5 through 11 of the Compact; and

WHEREAS, the Tribe agrees to the indemnification provision for any claims made to the Tax Commissioner under Article III, Section 10.03 of the Compact; and

WHEREAS, the Tribe agrees to the limited waivers of sovereign immunity under Article IV, Section 12 of the Compact; and

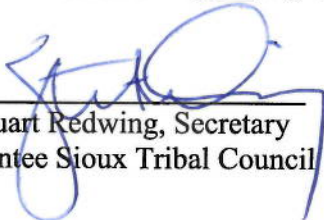
WHEREAS, the Tribe agrees to the dispute resolution provisions under Article IV, Section 13 of the Compact.

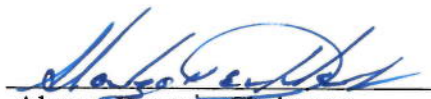
NOW, THEREFORE BE IT RESOLVED that the Tribal Council hereby approves the attached "Compact Relating to Cigarette and Tobacco Product Sales, Taxation, Stamping, Escrow, and Directory" attached hereto as "Exhibit A," and authorizes Vice Chairman Kameron Runnels to sign the same on behalf of the Santee Sioux Nation.

CERTIFICATION

This will certify that the foregoing resolution was considered at a Special Meeting of the Santee Sioux Tribal Council of the Santee Sioux Nation, duly called held on the 10th day of January, 2023, and was adopted by a vote of 6 FOR, 0 AGAINST and 1 NOT VOTING OR ABSENT. A quorum of 7 was present.

Dated this 10th day of January, 2023


Stuart Redwing, Secretary
Santee Sioux Tribal Council


Alonzo Denney, Chairman
Santee Sioux Tribal Council