

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

COMMISSIONERS: Rebecca Kelly Slaughter, Acting Chair  
Noah Joshua Phillips  
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Christine S. Wilson

File No. P114508

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated [Date], entitled “Resolution Directing Use of Compulsory Process,” a copy of which is enclosed, [Company] is ordered to file a Special Report with the Commission not later than May 31, 2022, containing the information specified herein. Much of the information requested for this report is to be filed electronically.

Your report is required to be subscribed and sworn to by an official of [Company] who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession.

Your report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give such information as is available to you and explain how and why your answer is incomplete.

Please supply written answers to each of the following requests:

1. The subscriber to your report is to give his or her full name and business address and state his or her official capacity.
2. State the full name of [Company], its official address, and its date and state of incorporation.
3. State whether [Company] is a subsidiary company; and if so, identify the full name and official address of its ultimate parent company.<sup>2</sup>

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<sup>1</sup> For your information, under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. For this information request, that number is 3084-0134.

<sup>2</sup> For the purposes of this Order, the term “subsidiary company” shall mean a company that is controlled by another entity; the term “parent company” shall mean an entity that controls

4. A. If [Company] is a subsidiary company, identify all other direct and indirect subsidiary companies of [Company]’s ultimate parent company, and for each such subsidiary company: (1) provide its full name and address; (2) identify its direct parent company and all of its direct subsidiary companies; and (3) state whether it has any involvement in the manufacturing, labeling, advertising,<sup>3</sup> promotion, marketing, development, offering for sale, sale, or distribution of cigarettes.
- B. If [Company] is not a subsidiary company, identify all of [Company]’s direct and indirect subsidiary companies, and for each such subsidiary company: (1) provide its full name and address; (2) identify its direct parent company and all of its direct subsidiary companies; and (3) state whether it has any involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes.

5. Report the net (*i.e.*, after accounting for returns) number of cigarettes sold in the United States by the Company during calendar year 2021.<sup>4</sup> This includes cigarettes given for free to

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another company; and the term “ultimate parent company” shall mean the highest level parent company that is not controlled by another entity.

Furthermore, for purposes of this Order, the term “control” (as used in the terms “control(s)” and “controlled”) shall mean either holding 50 percent or more of the outstanding voting securities of an issuer or, in the case of an entity that has no outstanding voting securities, having the right to 50 percent or more of the profits of the entity, or having the right in the event of dissolution to 50 percent or more of the assets of the entity.

3 For the purposes of this Order, the term “advertising” refers to all activities relating to cigarettes that are intended or likely to be seen or heard by members of the public, regardless of whether they refer or relate to a brand or brands of cigarettes.

4 For the purposes of this Order, the term “the Company” shall mean: [Company]; all entities identified in response to Questions 3 and 4, above, that have any involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes; and all other entities related through common ownership or common governance that have any involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes. The term “the Company” shall not, however, include any entity: (1) whose only involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes is as a convenience store, supermarket, gas station, pharmacy, or other retailer; (2) that sells cigarettes that are not manufactured or imported by the company; and (3) for which sales of cigarettes and cigarette-related merchandise constitute less than 25% of its total retail sales.

Furthermore, for the purposes of this Order, the term “United States,” when used in a geographical sense, includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the United States

retailers for subsequent sale to consumers. Report unit sales in number of cigarettes sold.

6. Report the net (*i.e.*, after accounting for returns) dollar value of cigarettes sold in the United States by the Company during calendar year 2021. Report dollar sales value in whole dollars.

7. Report the net (*i.e.*, after accounting for returns) number of cigarettes given away in the United States by the Company during calendar year 2021. This should include all cigarettes distributed for free whether through sampling, coupons for free product, “buy two get one free” type offers, or otherwise, as long as such cigarettes were not reported as sold in response to Question 5, above.<sup>5</sup> Report units given away in number of cigarettes given away.

8. Report separately the dollar amount expended during calendar year 2021 by the Company on cigarette advertising, merchandising, or promotion in the United States in each category specified in items 5 through 33 of Datafile No. 2.<sup>6</sup> This request is in addition to the request for the electronic datafile.

9. A. State whether the Company or any other persons working for or on behalf of the Company paid any money or compensation, or made any other contribution (including, but not limited to, goods or services, including free cigarettes) in connection with any production or filming of any motion picture(s), television

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territorial possessions (including Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island).

In addition, for the purposes of this Order, the phrase “sold in the United States” shall include all sales: (a) within the United States; (b) to members of the Armed Forces of the United States located outside the United States; or (c) for delivery to a vessel or aircraft of the Armed Forces of the United States, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States.

5 For the purposes of this Order, the phrase “given away in the United States” shall include all cigarettes given away: (a) within the United States; (b) to members of the Armed Forces of the United States located outside the United States; or (c) for delivery to a vessel or aircraft of the Armed Forces of the United States, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States.

6 For the purposes of this Order, the term “cigarette advertising” does not refer to and should not be construed to include: (a) company or divisional names, when used as such, other than in an advertisement relating to cigarettes; (b) signs on factories, plants, warehouses and other facilities related to the manufacture or storage of cigarettes; (c) corporate or financial reports; (d) communications to security holders of the Company and to others who customarily receive such communications; (e) employment advertising; or (f) advertisements directed to underage persons or their parents that are intended to reduce smoking by underage persons.

Furthermore, for the purposes of this Order, the phrase “advertising, merchandising, or promotion in the United States” shall include all advertising, merchandising, or promotion: (a) within the United States; or (b) to members of the Armed Forces of the United States.

show(s) (including scripted, original shows streamed via the Internet), or video game(s) during calendar year 2021. If so, please identify those show(s), movie(s), and video game(s) and state the dollar value of each payment or contribution.

- B. State whether the Company or any other persons working for or on behalf of the Company paid any money or compensation, or made any other contribution (including, but not limited to, goods or services, including free cigarettes) during calendar year 2021 to any individual, partnership, or corporation engaged in the business of product placement in motion pictures, television shows (including scripted, original shows streamed via the Internet), or video games. If so, please identify: the person who made the payment or contribution; the recipient of the payment or contribution; the nature and amount of the payment or contribution; and the name of each and every motion picture, television show, and video game in which any of the Company's cigarette products or cigarette brand imagery appeared in return for such payment or contribution.
- C. State whether the Company or any other persons working for or on behalf of the Company sought or solicited the appearance of any cigarette product or any cigarette brand imagery in any motion picture(s), television show(s) (including scripted, original shows streamed via the Internet), or video game(s) during calendar year 2021. If so, please identify those show(s), movie(s), and video game(s).
- D. State whether the Company or any other persons working for or on behalf of the Company granted approval or otherwise gave permission for the appearance of any cigarette product or any cigarette brand imagery in any motion picture(s), television show(s) (including scripted, original shows streamed via the Internet), or video game(s) during calendar year 2021. If so, please state which show(s), movie(s), and video game(s).
- E. State whether the Company or any other persons working for or on behalf of the Company sought or solicited the appearance of any cigarette product or any cigarette brand imagery, or granted approval or otherwise gave permission for the appearance of any cigarette product or any cigarette brand imagery, in any video appearing on the Internet, including, but not limited to, sites providing user-generated content, during calendar year 2021. If so, please provide the name of the video(s), the name of the site on which the video(s) appeared, and the Uniform Resource Locator ("URL") for each video.
- F. State whether the Company or any other persons working for or on behalf of the Company engaged in social media marketing that promoted any cigarette brand or variety,<sup>7</sup> or that used any cigarette brand imagery, in calendar year 2021. If so, please identify each type of social media marketing used, including, but not limited to, social networking sites, microblogging sites, content-sharing sites, and blogs.

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<sup>7</sup> For purposes of this Order, the term "variety" refers to cigarettes that have different UPC codes.

10. To the extent that such information is possessed by the Company or any other persons working for or on behalf of the Company, identify each and every televised event that was aired in calendar year 2021 during which the name, logo, or an image of any portion of the package of any brand or variety of cigarettes sold by the Company appeared on television through televised coverage of sponsored events, teams, or individuals.

11. Report the dollar amount expended during calendar year 2021 by the Company in the United States on advertisements directed to underage persons or their parents that were intended to reduce smoking by underage persons.<sup>8</sup>

12. For each calendar year, 2019, 2020, and 2021, state whether the Company sold heated, non-combusted, cigarettes (“heated cigarettes”) and if so, report, for the calendar year, the net (*i.e.*, after accounting for returns) number of heating devices designed to be used with heated cigarettes (“devices”) that were sold in the United States by the Company, the net dollar value of such devices sold, the net number of such devices that were given away in the United States by the Company, and the total amount expended on the advertising, merchandising, or promotion in the United States of such devices by the Company that was not reported in response to item 8 above or previously reported to the Commission.

For items 5-12 above, if the responsive information exists only within subsidiaries, it is permissible to submit separate reports from each subsidiary with responsive information subscribed and sworn to by an official of each subsidiary, who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in its possession. In such case, an official of [Company] still must submit a report subscribing and swearing that the subsidiaries’ reports submitted constitute all relevant information for [Company] and its subsidiaries, and that no contrary information exists. The written report or reports should be submitted as .pdf files and must include the signature(s) of the above-referenced official(s) attesting to the accuracy of the Company’s report.

### **INSTRUCTIONS FOR COMPLETING THE CIGARETTE REPORT DATAFILES**

The Commission requests that information be produced by the Company in spreadsheet format (readable by Microsoft Excel).

The Commission is requesting that sales data and data on cigarette advertising, merchandising, or promotion in the United States be reported in two separate datafiles. The instructions below provide detailed information on how to complete the two datafiles.

#### **DATAFILE NO. 1**

##### **INSTRUCTIONS FOR COMPLETING DATAFILE NO. 1:**

Sales data and certain other information are to be reported in Datafile No. 1 separately for each variety of cigarettes produced by the Company. For Datafile No. 1, the Commission is

<sup>8</sup> For purposes of this Order, “underage persons” means persons younger than twenty-one years of age.

requesting data at the variety level, rather than at the brand level.<sup>9</sup>

## FIELD DEFINITIONS FOR DATAFILE NO. 1

Datafile No. 1 contains 14 fields of data. The first three fields are used to create a unique identifier for each variety of cigarette. Please note the field names (in CAPS) cited below and use them as written for the Company's submissions.

1. YEAR (Year): Numeric field. Refers to the calendar year for which information is being reported. Entered as "20XX."

2. COMPCODE (Company Code): Character field. Enter letter assigned for the Company:

Company	C
Company	E
Company	F
Company	G

3. UPC-CODE: Numeric value, enter industry standard bar-code value for product as printed on the pack.

The next eight fields include the brand name and certain physical characteristics of the variety. Please enter all letters that appear in alphanumeric character fields using only capital letters.

4. BRANDNO (Brand number): Numeric field. Entered as values 01 to 99. Enter previously assigned number for existing brands. If new brand or previously unassigned, assign the next unused integer.

5. BRAND-NAME (Brand name): Character field. Refers to the brand identified on the cigarette pack. If the product is a generic or private label cigarette, indicate "GENERIC" and complete a separate record for each distinct variety.

6. CR-LENGTH (Marketing description of length): Character field. This field can contain a number or term.

7. CR-FILTER (Marketing description of filter): Character field.

8. CR-FLAVOR (Marketing description of cigarette flavoring): Character field.

9. CIGLENGTH (Cigarette length in millimeters): Numeric field. Three digits. Enter cigarette length in millimeters.

10. FILCODE (Filter code): Character field. Enter "F" for filtered or "N" for non-filtered.

<sup>9</sup> Thus, a brand with one variety will have just one record, which will be specific to that variety; a brand with 20 varieties will have 20 records.

11. FLAVOR (Flavoring): Character field. Enter “M” for menthol, “N” for non-flavored, “O” for other flavored.

The next three fields are used to record the net number of units of the variety that were sold, the net number of units that were given away, and the dollar value of the net number of units sold.

12. VARUNITSSOLD (Variety units sold): Numeric field. Report one figure for the number of cigarettes of this variety sold in the United States during calendar year 2021, net of the number of cigarettes of this variety that were returned. Include cigarettes given away to retailers for subsequent sale to consumers.

13. VARUNITSGIVEN (Variety units given away): Numeric field. Report one figure for the number of cigarettes of this variety given away in the United States during calendar year 2021, net of the number of cigarettes of this variety that were returned.

14. VARSALES (Variety-sales): Numeric field. Report one figure for the dollar value of cigarettes of this variety sold in the United States during calendar year 2021, net of the value of cigarettes of this variety that were returned.

## **DATAFILE NO. 2**

### **INSTRUCTIONS FOR COMPLETING DATAFILE NO. 2**

The next 33 fields are used to record expenditures on cigarette advertising, merchandising, or promotion in the United States for the specific categories requested by the FTC. Please provide information for items 5-33 in thousands of dollars. Expenditures may be rounded to the nearest thousand dollars. For example, \$1,234,567 should be reported as either 1234.567 or 1235, not as 1234567.

The Commission is requesting that expenditures on cigarette advertising, merchandising, or promotion in the United States be reported only at the brand level, rather than at the variety level.

The Commission is also requesting that expenditures on cigarette advertising, merchandising, or promotion in the United States that are not attributable to or in connection with any specific brand of cigarettes be reported in a “non-brand specific” record. Examples of such expenditures might include, among others, Category A expenses advertising or promoting all cigarettes generally or all of the Company’s cigarettes but not any specific brand of cigarettes and Category W expenses.

To the extent practicable, third-party agency fees relating to cigarette advertising, merchandising, or promotion in the United States should be reported in the categories of advertising or promotion to which those fees relate. For example, agency fees related to magazine advertising should be reported in Category B, agency fees related to point-of-sale advertising should be reported in Category F, and agency fees related to advertising on any Company web site should be reported in Category W. To the extent that third-party agency fees relating to cigarette

advertising, merchandising, or promotion in the United States cannot be divided based on the materials to which they relate, they should be reported in Category AA.

#### FIELD DEFINITIONS FOR DATAFILE NO. 2

1. YEAR (Year): Numeric field. Refers to the calendar year for which information is being reported. Entered as "20XX."

2. COMPCODE (Company Code): Character field. Enter letter assigned for the Company:

Company	C
Company	E
Company	F
Company	G

3. BRANDNO (Brand number): Numeric field. Entered as values 01 to 99. Enter previously assigned number for existing brands. If new brand or previously unassigned, assign the next unused integer. For the "Non-brand specific" record, enter the value 99.

4. BRAND-NAME (Brand name): Character field. Refers to the brand identified in advertising. If the product is a generic or private label cigarette, indicate "GENERIC."

5. CAT-A-EXP (Category-A Expenses): Newspaper advertising but excluding, if practicable, those expenditures covered by Categories L through V, which should be reported in those categories.

6. CAT-B-EXP (Category-B Expenses): Magazine advertising but excluding, if practicable, those expenditures covered by Categories L through V, which should be reported in those categories.

7. CAT-C-EXP (Category-C Expenses): Outdoor advertising but excluding, if practicable, those expenditures covered by Categories L through V, which should be reported in those categories. "Outdoor advertising" means (1) billboards, (2) signs and placards in arenas, stadiums, and shopping malls, whether any of the foregoing are open-air or enclosed, and (3) any other advertisements placed outdoors, regardless of their size, including those on cigarette retailer property.

8. CAT-D-EXP (Category-D Expenses): All expenditures for audio-visual or video advertising on any medium of electronic communication not subject to the jurisdiction of the Federal Communications Commission. This category includes, but is not limited to, advertisements on: screens at motion picture theaters, television screens or monitors in residential dwellings, as in certain televised programs and through video cassette or DVD entertainment products; and television screens or monitors in commercial establishments, such as video arcades. This category does not include expenditures for advertising on the Internet, which should be reported in Category W or Category X below.



9. CAT-E-EXP (Category-E Expenses): Direct-mail advertising but excluding, if practicable, those expenditures covered by Categories L through V or Category X, which should be reported in those categories.
10. CAT-F-EXP (Category-F Expenses): Point-of-sale advertising, that is materials displayed or distributed at a retail location, but excluding, if practicable, those expenditures covered by Category C or Categories L through V, which should be reported in those categories.
11. CAT-G-EXP (Category-G Expenses): Price discounts paid to cigarette retailers in order to reduce the price of cigarettes to consumers, including off-invoice discounts, buy downs, voluntary price reductions, and trade programs, but excluding retail-value-added expenditures for promotions involving free cigarettes (*e.g.*, buy two, get one free) covered by Category U and expenditures involving coupons covered by Category T, which should be reported in those categories.
12. CAT-H-EXP (Category-H Expenses): Price discounts paid to cigarette wholesalers in order to reduce the price of cigarettes to consumers, including off-invoice discounts, buy downs, voluntary price reductions, and trade programs, but excluding retail-value-added expenditures for promotions involving free cigarettes (*e.g.*, buy two, get one free) covered by Category U and expenditures involving coupons covered by Category T, which should be reported in those categories.
13. CAT-I-EXP (Category-I Expenses): Promotional allowances paid to cigarette retailers in order to facilitate the sale or placement of any cigarette, including payments for stocking, shelving, displaying, and merchandising brands, volume rebates, incentive payments, and the cost of cigarettes given to retailers for free for subsequent sale to consumers, but excluding, if practicable, those expenditures covered by Categories A through H, which should be reported in those categories.
14. CAT-J-EXP (Category-J Expenses): Promotional allowances paid to cigarette wholesalers in order to facilitate the sale or placement of any cigarette, including payments for volume rebates, incentive payments, value-added services, promotional execution, and satisfaction of reporting requirements but excluding, if practicable, those expenditures covered by Categories A through I, which should be reported in those categories.
15. CAT-K-EXP (Category-K Expenses): Promotional allowances paid to any persons other than retailers, wholesalers, and full-time company employees who are involved in the cigarette distribution and sales process in order to facilitate the sale or placement of any cigarette but excluding, if practicable, those expenditures covered by Categories A through J, which should be reported in those categories.
16. CAT-L-EXP (Category-L-Expenses): Sampling of cigarettes, including the costs of the cigarettes themselves, all associated excise taxes and increased costs under the Master Settlement Agreement, and the costs of organizing, promoting, and conducting sampling. Sampling includes the distribution of cigarettes for consumer testing or evaluation when consumers are able to smoke the cigarettes outside of a facility owned or operated by the Company or its agents, but the cost of actual clinical testing or market research associated with such cigarette distributions should not be

reported. Coupons distributed for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, should be reported in this category. When reporting expenses associated with such coupons for free cigarettes, the value reported should include: (a) the total redemption expense (including expenses for payments to retailers or vendors for processing) for such coupons in the calendar year, as determined under Generally Accepted Accounting Principles; and (b) all other costs associated with such coupons incurred in the calendar year, including, but not limited to, costs associated with advertising, promotion, design, printing, and distribution.

17. CAT-M-EXP (Category-M Expenses): All costs of consumer engagement at cigarette retail locations open to underage persons, including any third-party agency fees, but excluding the cost of coupons distributed in the course of consumer-engagement activities. When such activities are combined with the distribution of coupons for the reduction of the retail cost of cigarettes, the expenditures associated with those coupons should be reported solely in Category T. When such activities are combined with the distribution of coupons for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, the expenditures associated with those coupons should be reported solely in Category L.

18. CAT-N-EXP (Category-N Expenses): All costs of distributing any items (other than cigarettes, items the sole function of which is to advertise or promote cigarettes, or written or electronic publications) in connection with the marketing or promotion of cigarettes, whether distributed by sale, redemption of coupons, or otherwise, that do not bear the name, logo, or an image of any portion of the package of any brand or variety of cigarettes sold by the Company. The expenditures reported in this category should be the net cost to the Company, *i.e.*, payments received from consumers for such items should be deducted. When such activities are combined with cigarette sampling, the expenditures connected therewith should be reported solely in Category L. When such activities are combined with the sale of cigarettes, such as when a non-cigarette item is blister-packed to a package or packages of cigarettes, the expenditures connected therewith should be reported solely in Category V.

19. CAT-O-EXP (Category-O Expenses): Public entertainment events bearing or otherwise displaying the name or logo or an image of any portion of the package of any of the Company's cigarettes or otherwise referring or relating to cigarettes, that take place in an adult-only facility.<sup>10</sup> Such events must include entertainment, as opposed to simply consumer engagement. This item includes all expenditures made by the Company in promoting or sponsoring such events. When such activities are combined with consumer engagement in adult-only facilities, the expenditures connected with consumer engagement should be reported solely in Category Q.

20. CAT-P-EXP (Category-P Expenses): Public entertainment events (including, but not limited to, concerts and sporting events) bearing or otherwise displaying the name, logo, or an image of any portion of the package of any of the Company's cigarettes or otherwise referring or

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<sup>10</sup> For the purposes of this Order, the term "adult-only facility" means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe that no underage person is present. A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, provided that the operator ensures or has a reasonable basis to believe that no underage person is present during the event or time period in question.

relating to cigarettes, that do not take place in an adult-only facility. Such events must include entertainment, as opposed to simply consumer engagement. This item includes all expenditures made by the Company in promoting or sponsoring such events.

21. CAT-Q-EXP (Category-Q Expenses): All costs of consumer engagement of smokers in adult-only facilities, including any third-party agency fees, but excluding the cost of coupons distributed. When such activities are combined with the distribution of coupons for the reduction of the retail cost of cigarettes, the expenditures associated with those coupons should be reported solely in Category T. When such activities are combined with the distribution of coupons for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, the expenditures associated with those coupons should be reported solely in Category L.

22. CAT-R-EXP (Category-R Expenses): Endorsements, testimonials, and product placement. This item includes, but is not limited to, all expenditures made to procure cigarette use, or to procure the mention of a cigarette product or company name, or the appearance of a cigarette product or name, logo, or package, in any situation (*e.g.*, motion picture, television show or program, video game, stage show, or public appearance by a celebrity) where such use, mention, or appearance may come to the attention of the public.

23. CAT-S-EXP (Category-S Expenses): Sponsorship of sports teams or individual athletes but excluding, if practicable, those expenditures covered by Category R, which should be reported in that category. "Sports teams or individual athletes" includes, but is not limited to, competitors in football, basketball, baseball, hockey, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, or hunting events, competitions, tournaments, or races.

24. CAT-T-EXP (Category-T Expenses): All expenditures and costs associated with coupons for the reduction of the retail cost of cigarettes (whether distributed in person, by mail, online, or otherwise and whether redeemed at the point of sale, by mail, online, or otherwise), including: (a) the total redemption expense (including expenses for payments to retailers or vendors for processing) for such coupons in the calendar year, as determined under Generally Accepted Accounting Principles; and (b) all other costs associated with such coupons incurred in the calendar year, including, but not limited to, costs associated with advertising, promotion, design, printing, and distribution. Coupons distributed for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, should be reported in Category L. Redemption costs should include any payments to retailers above the face value of the coupons.

25. CAT-U-EXP (Category-U Expenses): Retail-value-added expenditures for promotions involving free cigarettes (*e.g.*, buy two, get one free), whether or not the free cigarettes are physically bundled together with the purchased cigarettes, including all expenditures and costs associated with the value added to the purchase of cigarettes (*e.g.*, all associated excise taxes paid on the free cigarettes and any increased costs under the Master Settlement Agreement resulting from the distribution of the free cigarettes).

26. CAT-V-EXP (Category-V Expenses): Retail-value-added expenditures for promotions

involving free or discounted non-cigarette product (*e.g.*, buy two, get a free lighter or buy two, save 20 cents per gallon of gasoline), including all expenditures and costs associated with the value added to the purchase of cigarettes.

27. CAT-W-EXP (Category-W Expenses): All expenditures for advertising on any Company Internet web site that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page. This category includes, but is not limited to, expenditures for cigarette brand web sites.

28. CAT-X-EXP (Category-X Expenses): All expenditures for advertising on the Internet, other than on the Company's own Internet web sites, including, but not limited to, the World Wide Web, commercial online services, and electronic mail messages, but excluding, if practicable, those expenditures covered by Category Z, which should be reported in that category. This category includes but is not limited to: spending on all Internet sites and pages, hyperlinks and banners on third-party sites, newsgroups, and online advertisements that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page; all direct-mail advertising using electronic mail messages; and all sites and pages, hyperlinks and banners on third-party sites, newsgroups, or electronic mail messages that include the name, logo, symbol, motto, or selling message of a brand of cigarettes, or are referred to in any other cigarette advertising, regardless of whether the site, page, hyperlink, banner, or electronic mail message is promoting the sale of cigarettes. Expenditures include, but are not limited to, the cost of developing, creating, maintaining, monitoring, and updating the site, page, banner, or other form of online advertising, whether located on systems maintained by the Company or by third-party advertisers, commercial online services, or Internet World Wide Web host providers.

29. CAT-Y-EXP (Category-Y Expenses): All expenditures for telephone advertising. This category includes, but is not limited to, costs associated with the placement of telemarketing calls or the maintenance or operation of incoming telephone lines that allow consumers to participate in any promotion or hear pre-recorded product messages, but excludes costs associated with having customer-service representatives available for responding to consumer complaints or questions.

30. CAT-Z-EXP (Category-Z Expenses): All expenditures for social media marketing on web sites or other online services or communities, including, but not limited to, social networking sites, microblogging sites, content-sharing sites, and blogs.

31. CAT-AA-EXP (Category-AA Expenses): Any advertising or promotional expenditures not covered by another reporting category. Specify the total amount on the written report and briefly describe the specific subject matter of each such expenditure.

32. TOT-ADV-EXP (Total Reportable Expenditures): Reportable expenditures for the brand as defined in the explanatory notes. The figure provided for total reportable expenditures should equal the sum of the expenses listed in Categories A through AA for the brand.

33. SPORTS-EXP (Sports and Sporting Events): Report all advertising and promotional expenditures connected with or related to sports or sporting events, including but not limited to: (i) the sponsoring, advertising, or promotion of sports or sporting events, including any racing or

automotive events, support of an individual, group, sports, or racing team, and purchase of or support for sports or racing equipment, uniforms, sports or racing facilities and or training facilities; (ii) all expenditures for advertising including, but not limited to, print, television, radio, billboards, banners, etc., in the name of the Company or any of its cigarette brands in a sports or racing facility, on a scoreboard, or in conjunction with the reporting of sports or racing results; (iii) all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a sporting or racing event, including, but not limited to, clothing, hats, bags, posters, sporting or racing goods, and equipment; (iv) all expenditures associated with cigarette sampling or consumer engagement in connection with a sporting event, including sampling or consumer engagement in an adult-only facility on the grounds or in the parking lot of a sports facility; (v) all expenses relating to a sweepstakes or contest focused on sports or sporting events (e.g. a trip to the Super Bowl, tickets to NASCAR, or a fishing trip), including the promotion of the sweepstakes or contest itself; and (vi) all expenses for sports-related or sporting event-related prizes awarded in sweepstakes or contests that are not focused on sports or sporting events, but not cost of promoting the sweepstakes or contest itself.

The expenditures reported in this category are intended to be duplicative of expenditures listed above on lines 5-31 and totaled on line 32. Do not report any expenditures on this line that have not also been reported on lines 5-32. For example, sponsorship of a sporting event that is reported on line 20 would also be reported on line 33; and a miscellaneous expenditure for sponsoring a sports or racing team would be reported on lines 23 and 33. "Sports and sporting events" include, but are not limited to, football, basketball, baseball, hockey, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, or hunting events, competitions, tournaments, or races.

#### OTHER EXPLANATORY NOTES FOR DATAFILE NO. 2

Expenditures on lines 5-31 should be included in only one category, except for any amounts also reported on line 33 (sports). Reportable expenditures (lines 5-31) should equal the total on line 32, and should equal the total cost to the Company of administering the activity involved, including commissions and other payments made to separate organizations, such as advertising agencies. In addition, expenditures reported on lines 5-33 should include all expenditures for advertising and promotion relating to cigarettes, regardless of whether the advertising or promotion would constitute "commercial speech" or would be protected from law enforcement action by the First Amendment. However, such expenditures should not include the costs of employing full-time employees of the Company or any overhead expenses attributable to the activities of such company employees.

The financial accounting procedure to be used in assigning an expenditure to a particular calendar year should be the accrual rather than the cash basis method of accounting.

You are advised that penalties may be imposed under applicable provisions of federal law for failure to file special reports or for filing false reports.

The Special Report called for in this Order is to be filed on or before May 31, 2022.

By direction of the Commission.

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Rebecca Kelly Slaughter, Acting Chair

SEAL

[Date]

The Report required by this Order, or any inquiry concerning it, should be addressed to:

Michael Ostheimer  
Federal Trade Commission  
Division of Advertising Practices  
600 Pennsylvania Avenue, N.W., Mailstop CC-10528  
Washington, D.C. 20580  
mostheimer@ftc.gov