

Trademark Consent Agreement

This Trademark Consent (“**Agreement**”), dated as of the full execution of the document (the “**Effective Date**”), is by and between Susan M., Jesmer, dba Native Trading Associates (“**Registrant**”) and DAD Consulting, LLC (“**Applicant**”).

WHEREAS, Registrant owns all right, title, and interest in the Registration (as defined below) for Registrant’s Mark (as defined below) in International Class 34 for the Registrant’s Goods (as defined below);

WHEREAS, Applicant is the owner of the Application (as defined below) to register the Applicant’s Mark (as defined below) in International Class 34 for Applicant’s Goods (as defined below);

WHEREAS, in an Office Action dated October 22, 2019, the US Patent & Trademark Office refused registration of Applicant’s Mark based on a finding of likelihood of confusion with the Registrant’s Mark as shown in the Registration; and

WHEREAS, Registrant and Applicant believe that Applicant’s use of Applicant’s Mark within the scope of the Application does not and will not create actual or likelihood of confusion with Registrant’s use of Registrant’s Mark within the scope of the Registration.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

“**Application**” means US trademark application Serial Number 88345259.

“**Applicant’s Goods**” means the goods listed in the Application, as they may be amended in response to the Office Action or otherwise.

“**Applicant’s Mark**” means the trademark MOHAWK shown in the Application.

“**Marks**” means, as context dictates, either Applicant’s Mark or Registrant’s Mark or, collectively, Applicant’s and Registrant’s Marks.

“**Registrant’s Goods**” means the goods listed in the Registration, namely cigarettes and smoking tobacco.

“**Registrant’s Mark**” means the trademark MOHAWK.

“**Registration**” means US trademark Registration Number 4046435.

“**Territory**” means the United States of America and its territories and possessions as well as the rest of the world.

2. Consent to Use and Registration. Registrant hereby consents to:

(a) Registration in the US Patent & Trademark Office of Applicant's Mark in International Class 34 for Applicant's Goods under the Application.

(b) Applicant's use of Applicant's Mark in the Territory within the scope of the Application.

3. Amendment of Application. The parties agree that Applicant may amend the Application in response to the Office Action and as otherwise permitted under the relevant rules of the US Patent & Trademark Office.

4. Restrictions. Applicant agrees that it will not use or register Applicant's Mark for tobacco products. Likewise, Registrant agrees that it will not use or register Registrant's Mark for products that are comprised essentially of hemp.

5. No Likelihood of Confusion. The parties acknowledge and agree that based on the agreed different uses of the respective party's Mark and the close relationship between the parties there is and will be no likelihood of consumer confusion resulting from the simultaneous use and registration of the Marks for their respective goods as set forth herein

6. Cooperation in the Event of Actual Confusion. In the unlikely event that either party becomes aware of any actual consumer confusion resulting from the simultaneous use of the Marks as permitted by this Agreement:

(a) Such party shall promptly advise the other party of the details of such confusion.

(b) The parties shall cooperate to take commercially reasonable steps to address the confusion and prevent its future occurrence.

7. Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances, and take such further actions as may be reasonably required to carry out the provisions hereof.

8. Miscellaneous.

(a) This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

(b) This Agreement constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

(d) If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(e) This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto, and any of the terms thereof may be waived only by a written document

signed by the party or parties waiving compliance. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(f) This Agreement may be executed in multiple counterparts and by facsimile signature, each of which shall be deemed an original and all of which together shall constitute one instrument. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Susan M., Jesmer, dba Native Trading Associates

By 

Name:

Date: October 24, 2019

DAD Consulting, LLC

By 

Name:

Title:

Date: October 24, 2019