



October 22, 2019

**MODIFIED RISK GRANTED ORDERS --  
RISK MODIFICATION**

Swedish Match USA, Inc.  
Attention: Gerard Roerty, Vice President, General  
Counsel & Secretary  
Two James Center  
1021 East Cary Street, Suite 1600  
Richmond, VA 23219

**FDA Submission Tracking Numbers (STNs): MULTIPLE STNs, See Appendix A**

Dear Mr. Roerty:

We completed review of your MRTPAs<sup>1</sup> and are issuing modified risk granted orders for the tobacco products identified in Appendix A.

Based on our review of your MRTPAs, we find that the modified risk tobacco products, as described in your applications and specified in Appendix A, as actually used by consumers, will significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products. Therefore, we authorize the marketing of the modified risk tobacco products with the following modified risk information:

“Using General Snus instead of cigarettes puts you at a lower risk of mouth cancer, heart disease, lung cancer, stroke, emphysema, and chronic bronchitis.”

Under the provisions of section 911, you may introduce or deliver for introduction into interstate commerce the modified risk tobacco products, in accordance with these risk modification orders. These risk modification orders include requirements related to conditions of marketing under section 911(h) and postmarket surveillance and studies under section 911(i) as well as requests related to other record retention and reporting, as outlined in the attached appendices.

These orders expire 5 years from the issue date of this letter. If you wish to renew your orders, we recommend a request for renewal is received by FDA 360 days prior to the expiration date. Your renewal may cross-reference your MRTPAs that are subject to these orders.

The requirements in these risk modification orders are intended to help ensure that your modified risk tobacco products, as actually used by consumers, will continue to significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not

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<sup>1</sup> Modified Risk Tobacco Product Applications (MRTPAs) submitted under section 911(d) of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

currently use tobacco products. However, compliance with these requirements alone is not a guarantee that the modified risk tobacco products, as actually used by consumers, will continue to significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and benefit the health of the population as a whole, particularly if, despite these measures, there is a significant increase in youth initiation or initiation by non-users. FDA will continue to monitor the marketing of your modified risk tobacco products and their impact on the population.

These orders authorizing the marketing of these modified risk tobacco products do not mean FDA “approved” the modified risk tobacco products specified in Appendix A; therefore, you may not make any express or implied statement or representation directed to consumers that conveys, or misleads, or would mislead consumers into believing, among other things, that the modified risk tobacco products specified in Appendix A are “approved” by FDA.<sup>2</sup> The modified risk tobacco products subject to these risk modification orders are subject to withdrawal as described in section 911(j).

We remind you that all regulated tobacco products, including the modified risk tobacco products specified in Appendix A, are subject to the requirements of the FD&C Act and its implementing regulations. It is your responsibility to ensure the modified risk tobacco products specified in Appendix A comply with all applicable statutory and regulatory requirements. FDA will monitor your compliance with all applicable statutes and regulations.

In accordance with 40 CFR 1506.6, we will make your Environmental Assessment (EA) publicly available.

We encourage you to submit all regulatory correspondence electronically via the CTP Portal<sup>3,4</sup> using eSubmitter.<sup>5</sup> Alternatively, submissions may be mailed to:

Food and Drug Administration  
Center for Tobacco Products  
Document Control Center (DCC)  
Building 71, Room G335  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

The CTP Portal and FDA’s Electronic Submission Gateway (ESG) are generally available 24 hours a day, seven days a week; if the upload is successful, submissions are considered received by DCC on the day of upload. Submissions delivered to DCC by courier or physical mail will be considered timely if received during delivery hours on or before the due date<sup>6</sup>; if the due date falls on a weekend or holiday, the delivery must be received on or before the preceding business day. We are unable to accept regulatory submissions by e-mail.

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<sup>2</sup> See Section 301(tt) of the FD&C Act.

<sup>3</sup> <http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Manufacturing/ucm515047.htm>

<sup>4</sup> FDA’s Electronic Submission Gateway (ESG) is still available as an alternative to the CTP Portal.

<sup>5</sup> <https://www.fda.gov/industry/fda-esubmitter>

<sup>6</sup> <https://www.fda.gov/tobacco-products/about-center-tobacco-products-ctp/contact-ctp>

If you have any questions regarding these orders, please contact Shireen Fotelargias, Regulatory Health Project Manager, at (240) 402-0435 or [Shireen.Fotelargias@fda.hhs.gov](mailto:Shireen.Fotelargias@fda.hhs.gov).

If you have any questions regarding postmarket activities for the modified risk tobacco products subject of these orders, please contact Eugene Y Chuang, at (240) 402-9302 or [Eugene.Chuang@fda.hhs.gov](mailto:Eugene.Chuang@fda.hhs.gov).

Sincerely,

Digitally signed by Matthew R. Holman -S  
Date: 2019.10.22 08:58:56 -04'00'

Matthew R. Holman, Ph.D.  
Director  
Office of Science  
Center for Tobacco Products

Enclosures:

**Appendix A-** List of Tobacco Products That Are Subject of This Letter

**Appendix B-** Required Postmarket Surveillance and Studies

**Appendix C-** Advertising and Promotion Requirements

**Appendix D-** Recordkeeping and Retention

**Appendix E-** Manufacturing Information

**Appendix A**

List of Tobacco Products That Are Subject of This Letter

<b>Common Attributes of MRTPAs</b>	
<b>Submission Date:</b>	June 10, 2014
<b>Receipt Date:</b>	June 10, 2014
<b>Product Manufacturer:</b>	Swedish Match USA, Inc.
<b>Product Category:</b>	Smokeless Tobacco Products
<b>Modified Risk Information:</b>	Using General Snus instead of cigarettes puts you at a lower risk of mouth cancer, heart disease, lung cancer, stroke, emphysema, and chronic bronchitis.
<b>MR0000020: General Loose<sup>7</sup></b>	
<b>Product Subcategory:</b>	Loose Snus
<b>Package Type:</b>	Cardboard Can with Plastic Lid
<b>Package Quantity:</b>	45.0 g
<b>Characterizing Flavor:</b>	None
<b>MR0000021: General Dry Mint Portion Original Mini<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	6.0 g
<b>Characterizing Flavor:</b>	Mint
<b>MR0000022: General Portion Original Large<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	24.0 g
<b>Characterizing Flavor:</b>	None
<b>MR0000024: General Classic Blend Portion White Large – 12 ct<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	10.8 g
<b>Characterizing Flavor:</b>	None
<b>MR0000025: General Mint Portion White Large<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	24.0 g
<b>Characterizing Flavor:</b>	Mint
<b>MR0000027: General Nordic Mint Portion White Large – 12 ct<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	10.8 g
<b>Characterizing Flavor:</b>	Mint

<sup>7</sup> STN: Product Name (Brand/sub-brand or other commercial name used in commercial distribution)

<b>MR0000028: General Portion White Large<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	24.0 g
<b>Characterizing Flavor:</b>	None
<b>MR0000029: General Wintergreen Portion White Large<sup>7</sup></b>	
<b>Product Subcategory:</b>	Portioned Snus
<b>Package Type:</b>	Plastic Can
<b>Package Quantity:</b>	24.0 g
<b>Characterizing Flavor:</b>	Wintergreen

## Appendix B

### Required Postmarket Surveillance and Studies (PMSS)

Under Section 911(i)(1) of the FD&C Act, FDA must require postmarket surveillance and studies for any product for which an applicant received an order under 911(g)(1) in order to: "...determine the impact of the order issuance on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the order was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product."

#### I. PMSS Content

##### *MRTTP Use Behavior and Consumer Understanding and Perception*

After receiving authorization, the determination of whether the eight General Snus products that are the subject of these applications, as actually used by consumers, continue to benefit the health of the population as a whole is likely to be driven by use behavior. Therefore, monitoring use of the eight General Snus products that are the subject of these applications in terms of uptake, dual use, and complete switching is required. In particular, your PMSS must assess the extent to which new MRTTP users were non-users, smokers, or other tobacco product users before initiating the MRTTPs and the extent to which new users of the MRTTPs become exclusive users or dual users with cigarettes or other tobacco products over time. Relatedly, such surveillance must include an assessment of consumers' understanding of the claim and perceptions of the products. In particular, PMSS must assess the extent to which users of these products understand that, to reduce their risk of disease relative to smoking as described in the modified risk information, they must use General Snus exclusively. **To adequately assess these impacts, you must conduct PMSS that include assessing users' behavior and consumer understanding at multiple time points.**

In addition, FDA has determined that assessing the impact of your MRTTP orders on uptake of the products requires surveillance of MRTTP sales and distribution, which provide information to assess tobacco consumption at the population level. Your PMSS protocols must describe procedures for monitoring and reporting MRTTP sales and distribution in the U.S. by product, major metropolitan areas, and channels where the products are sold (e.g., convenience stores, food and drug stores, internet and digital retailers, tobacco specialty shops). Your annual PMSS report must include:

- U.S. sales and distribution of the tobacco products by quarter since the granting of your modified risk granted orders (for the initial reporting period) or the previous reporting period (for all reports that follow), including, for each MRTTPA STN, total U.S. sales and distribution reported in dollars and units, and broken down by major metropolitan areas, and channels where the products were distributed and sold during the reporting period (e.g., convenience stores, food and drug stores, internet and digital retailers, tobacco specialty shops).
- A brief synthesis and summary of the sales and distribution data for the initial reporting period or the previous reporting period (for all reports that follow), including annual and quarterly growth rate (percent change) in total U.S. sales and distribution of the tobacco products for each MRTTPA STN, post-MRTTP authorization.

### MRTP Use and Adverse Experiences

In order for FDA to determine whether the eight General Snus products that are the subject of these applications, as actually used by consumers, continue to benefit the health of the population as a whole, your PMSS must include ongoing surveillance of all adverse experiences associated with the use of the MRTPs. These experiences may become known to you through any source, including a customer complaint, request, or suggestion made as a result of an adverse experience, tobacco product defect, or failure, reported to you, or identified in the literature or media. Your PMSS protocols must include procedures for monitoring and analyzing adverse experiences and your annual PMSS report must include:

- A summary of reported adverse experiences for the tobacco products, which includes a listing of all adverse experiences during the reporting period and a cumulative list, including all serious and unexpected adverse experiences previously reported. The summary must be accompanied by an analysis of the reports and a statement of any changes to risk information related to the products including nature, frequency, and potential aggravating factors.

In addition, the PMTA orders for your General snus products, issued on November 10, 2015, require you to report to the FDA all adverse experiences that are both serious and unexpected and your analysis of the association between the adverse experience and the tobacco product within 15 calendar days after the report is received by you. These experiences may become known to you through any source, including a customer complaint, request, or suggestion made as a result of an adverse experience, tobacco product defect, or failure, reported to you, or identified in the literature or media. We request that when submitting such reports, you reference both your PMTAs and your MRTPA's for these products. Your information should be submitted with a cover letter that includes the following text in the subject line: **SERIOUS UNEXPECTED ADVERSE EXPERIENCE REPORT FOR STN(s) PM0000010-PM0000017 and MR0000020-MR0000022, MR0000024-MR0000025, and MR0000027-MR0000029.**

For purposes of this reporting, *serious adverse experience* means an adverse experience that results in any of the following outcomes:

- Death;
- A life-threatening adverse event;
- Inpatient hospitalization or prolongation of existing hospitalization;
- A persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions;
- A congenital anomaly/birth defect; or
- Any other adverse experience that, based upon appropriate medical judgment, may jeopardize the health of a person and may require medical or surgical intervention to prevent one of the other outcomes listed in this definition.

For purposes of this reporting, *unexpected adverse experience* means an adverse experience occurring in one or more persons in which the nature, severity, or frequency of the experience is not consistent with:

- The known or foreseeable risks associated with the use or exposure to the tobacco product as described in the PMTA (including the results of human subject investigations) and other relevant sources of information, such as postmarket reports and studies;

- The expected natural progression of any underlying disease, disorder, or condition of the person(s) experiencing the adverse experience and the person's predisposing risk factor profile for the adverse experience; or
- The results of nonclinical laboratory studies.

Surveillance of New Research Study Findings the MRTPs and Consumer Perception, Behavior, or Health

In order for FDA to determine whether the eight General Snus products that are the subject of these applications, as actually used by consumers, continue to benefit the health of the population as a whole, your PMSS must include surveillance of new research study information about the MRTPs and consumer perception, behavior, or health. In particular, your PMSS protocol must include procedures for monitoring and assessing findings both in your own studies (i.e., studies conducted by you or on your behalf) and in publications including any new scientific data (published or otherwise) regarding the MRTPs and consumer perception, behavior, or health. Your annual PMSS report must include:

- A summary of significant findings about the tobacco products from research studies conducted by you or on your behalf, whether or not such studies were specifically required under this order. A summary of significant findings in publications not previously reported and full copies of the articles. This must include any new scientific data (published or otherwise) on the MRTPs and consumer perception, behavior, or health.

## II. Submitting PMSS Protocols and Reports

Within 30 days of receiving this notice, you must submit complete protocols for your PMSS as required under section 911(i)(2) of the FD&C Act. Label your submission clearly as a "PMSS Protocol," and reference your MRTPA Submission Tracking Numbers (STNs). If you have more than one protocol, submit each protocol as a separate submission. If applicable, each protocol should include the name(s) of the principal investigator(s) and materials that demonstrate the relevant professional credentials and training that qualify them to lead the study. Within 60 days of receipt of the protocol(s), FDA will determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct the surveillance and if the protocol(s) will result in collection of the data or other information that FDA designates as necessary to protect public health, pursuant to section 911(i)(2) of the FD&C Act. FDA will notify you of and provide opportunities to address, any deficiency in the submission. If the PMSS protocol is amended subsequent to FDA approval, FDA must receive the amended protocol promptly. For protocol amendments that are administrative in nature (e.g., corrections in punctuation or titles), the amended protocol must be received by FDA within 30 days of the update. For protocol amendments that seek to modify the study design (including endpoints, sites, questionnaires, methodology, etc.) or other scientific parameters, you may not initiate the change until you receive FDA approval.

As part of the requirement to conduct PMSS, you must initiate and conduct your PMSS per timeframes established in your protocols and approved by FDA. Note that for PMSS that involve human subjects, the anticipated start date for each study must account for the time required for securing IRB approval, as needed. In addition to specifying the start date, your protocols must contain timelines for completion of major study milestones including, as applicable, the start and completion of participant recruitment, initiation of data collection (per wave, if applicable), completion of data collection, analysis, and report writing. If you deviate from these timelines, we request that you report the deviation within 30 days to FDA.



Section 911(i) requires that the results of PMSS be submitted on an annual basis. These reports must be identified as “PMSS Report”, and the MRTPA STNs should be referenced for each report. The PMSS Report must indicate the beginning and ending date of the period covered by the report and must include accomplishments since the last reporting period. For quantitative updates on studies in progress (e.g., participant accrual), reports should describe both interim (since the last reporting period) as well as cumulative (since study initiation) accomplishments. The PMSS Report describing studies in progress must describe the status of PMSS, including, as applicable the status of recruitment, data collection, and analysis; a summary of the study milestones achieved and any deviations from the agreed upon timelines in the protocol; a summary of protocol amendments; and a summary of any preliminary analyses conducted. Once a study is completed, the PMSS Report should include the complete final study report.

## Appendix C

### Advertising and Promotion Requirements

#### I. Recordkeeping and Retention

Under section 911(h)(5) of the FD&C Act, these risk modification orders require you to establish and maintain the following records:

- Records pertaining to the products' labeling, advertising, marketing, and/or promotion – whether conducted by you, on your behalf, or at your direction – including:
  - Specimens of all labeling, labels, inserts/onserts, instructions, and other accompanying information;
  - Copies of all advertising, marketing, and/or promotional materials published, disseminated to consumers, or for use in engaging or communicating with consumers;
  - Copies of any formative research studies conducted among any audiences in the formation of the labeling, advertising, marketing, and/or promotional materials, including qualitative and quantitative research studies used to determine message effectiveness, consumer knowledge, attitudes, beliefs, intentions, and behaviors toward using the products, and including copies of the stimuli used in testing;
  - Copies of any consumer evaluation research studies conducted among any audiences to determine the effectiveness of labeling, advertising, marketing, and/or promotional materials and any shifts in consumer knowledge, attitudes, beliefs, intentions, and behaviors toward using the products, and including copies of the stimuli used in testing;
  - Copies of any contractual agreements regarding the creation and/or dissemination of the products' labeling, advertising, marketing, and/or promotional materials;
  - Copies of all advertising and marketing plans, including strategic creative briefs and paid media plans, by channel and by product, and the dollar amount(s) and flighting of such plans, by channel and by product, including any:
    - Use of competent and reliable data sources, methodologies, and technologies to establish, maintain, and monitor highly targeted advertising and marketing plans and media buys;
    - Targeting of specific adult audiences by age-range(s), including young adult audiences, ages 18-24, and other demographic and/or psychographic characteristics that reflect your intended target audience;
    - Actions taken to restrict youth-access and limit youth-exposure to the products' labeling, advertising, marketing, and/or promotion;
    - Use of owned, earned, shared, and/or paid social media to create labeling for, advertise, market, and/or promote the products;
    - Use of partners, influencers, bloggers, and/or brand ambassadors to create labeling for, advertise, market, and/or promote the products;
    - Consumer engagements – whether conducted by you, on your behalf, or at your direction – including events at which the products were demonstrated; and/or
    - Use of earned media and/or public-relations outreach to create labeling for, advertise, market, and/or promote the products
  - Copies of all records pertaining to media tracking and optimization, by channel, by product, and by audience demographics (e.g., age, gender, race/ethnicity, geographic region), and all post-launch delivery-verification reports submitted to you from an accredited source, by channel, by product, and by audience demographics; and

- Policies and procedures for real-time digital media monitoring to identify, correct, and prevent any delivery of advertising impressions to youth, ages 17 years and under, including documentation of such monitoring activities and implementation of corrective and preventive measures

## II. Notifications

Under section 911(h)(5) of the FD&C Act these risk modification orders require that for the first six months after the date of your modified risk order you provide FDA a 30-day notification for all labeling, advertising, marketing, and/or promotional materials for which you plan on disseminating to the public. These notifications are not for pre-approval, but are required so that FDA can have timely access to your marketing plans and materials, and if needed, provide you advisory comments, including any concerns about their possible impact on youth appeal and tobacco use initiation and on the finding that continued marketing of your products will benefit the health of the population as a whole. You may begin disseminating the materials 30 days after providing notification to FDA. This notification must be received by FDA **at least 30 days prior** to dissemination, which includes but is not limited to the publication, dissemination to consumers, or use in engaging or communicating with consumers of such materials. The notification must include:

- Full-color copies of all such labeling, advertising, marketing, and/or promotional materials for the products. The materials must include all panels where applicable (e.g., print ads, point of sale signs) and reflect the actual size and colors used. For any materials that would not fit on an 8.5" x 11" piece of paper, you may resize and submit electronic versions of such materials in a format that FDA can review and with sufficient resolution to allow FDA to read lettering clearly. If resizing the advertisement does not allow for text to be read easily, the text may be provided separately and referenced. Digital media, such as videos, must be submitted in a format that FDA is able to open and review.
- All advertising and marketing plans, including strategic creative briefs and paid media plans, by channel and by product, and the details, dollar amount(s) and flighting of such plans, by channel and by product, including any plans to:
  - Use competent and reliable data sources, methodologies, and technologies to establish, maintain, and monitor highly targeted advertising and marketing plans and media buys, including a list of all data sources used to target advertising and marketing plans and media buys;
  - Target specific adult audiences by age-range(s), including young adults, ages 18-24, and other demographic and psychographic characteristics that reflect your intended target audience(s), including how the target audience(s) are defined and the insights used to develop the target audience profile(s) and the source of such insights;
  - Restrict youth-access and limit youth-exposure to the products' labeling, advertising, marketing, and/or promotion;
  - Use owned, earned, shared/social, and/or paid media to create labeling for, advertise, market, and/or promote the products;
  - Use partners, influencers, bloggers, and/or brand ambassadors to create labeling for, advertise, market, and/or promote the products;
  - Conduct any consumer engagements – whether by you, on your behalf, or at your direction – including events at which the products will be demonstrated; and/or
  - Use public-relations outreach to create labeling for, advertise, market, and/or promote the products.

### III. Periodic Reporting

Under sections 911(h)(5) of the FD&C Act, these orders require that you submit periodic reports every 6 months to FDA once during the month of June of each year and once during the month of December of each year, beginning June 2020. For the six-month reporting period, the report must include:

- A cover letter that includes the following text in your subject line: **PERIODIC REPORT for MR0000020-MR0000022, MR0000024-MR0000025, MR0000027-MR0000029**. The cover letter should include the STN(s) and corresponding tobacco product name(s), applicant name, date of report, and reporting period.
- All final printed labeling (including all variations, such as those reflecting different required warnings) not previously submitted (e.g., if previously submitted under section 905(i) or previously submitted at the last reporting period and no changes were made, please list the date and manner of submission), including the date the labeling was first disseminated and the date when the labeling was discontinued, and a description of all changes to the labeling. The labeling must include all the panels and be presented in the actual size and color with legible text. The labeling must include labels, inserts/onserts, instructions, and any other accompanying information or materials for the products.
- All final full-color advertising, marketing, and/or promotional materials, published, disseminated to consumers, or for use in engaging or communicating with consumers not previously submitted (e.g., if previously submitted under 905(i) or previously submitted at the last reporting period and no changes were made, please list the date and manner of submission), along with the original date such materials were first disseminated and the date they were discontinued, and a description of all changes to the materials. The materials must be legible, include all panels where applicable (e.g., print ads, point of sale signs) and reflect the actual size and colors used. For any materials that would not fit on an 8.5" x 11" piece of paper, you may resize and submit electronic versions of such materials in a format that FDA can review and with sufficient resolution to allow FDA to read lettering clearly. If resizing the advertisement does not allow for text to be read easily, the complete text may be provided separately and clearly referenced. Digital media, such as videos must be submitted in a format that FDA is able to open and review.

### IV. Annual Reporting

Under section 911(h)(5) of the FD&C Act, these risk modification orders require that you submit the following reports to FDA **on an annual basis**, beginning twelve months from the date of this order. For each twelve-month reporting period, these annual reports must include:

- A cover letter that includes the following text in your subject line: **ANNUAL REPORT for MR0000020-MR0000022, MR0000024-MR0000025, MR0000027-MR0000029**. The cover letter should include the STN(s) and corresponding tobacco product name(s), firm name, date of report, reporting period.
- A description of the implementation of all advertising and marketing plans, including strategic creative briefs and paid media plans – whether conducted by you, on your behalf, or at your direction – by channel and by product, and the dollar amount(s) and flighting of such plans, by channel and by product, including a description of any:
  - Use of competent and reliable data sources, methodologies, and technologies to establish, maintain, and monitor highly targeted advertising and marketing plans and media buys, including a list of all data sources used to target advertising and marketing plans and media buys;

- Targeting of specific adult audiences by age-range(s), including young adults, ages 18-24, and other demographic and/or psychographic characteristics that reflect the intended target audience(s), how the target audience(s) were defined and the insights used to develop the target audience profiles(s) and the source of such insights;
- Actions taken to restrict youth-access and limit youth-exposure to the products' labeling, advertising, marketing, and/or promotion;
- Use of owned, earned, shared/social, and/or paid media to create labeling for, advertise, market, and/or promote the products;
- Use of partners, influencers, bloggers, and/or brand ambassadors to create labeling for, advertise, market, and/or promote the products;
- Consumer engagements – whether conducted by you, on your behalf, or at your direction – including events at which the products were demonstrated; and/or
- Use of public-relations outreach to create labeling for, advertise, market, and/or promote the products; including the original date such plans were first used and the date they were discontinued, and a description of all changes to such plans since the last periodic report, by channel and by product.
- An analysis of the actual delivery of advertising impressions, by channel, by product, and by audience demographics (e.g., age, gender, race/ethnicity, geographic location), including a breakout by age-group (i.e., adults, ages 25+; young adults, ages 18-24; and youth, ages 12-17 and ages 11 and under), not previously submitted. This analysis should be verified against post-launch delivery-verification reports submitted to you from an accredited source.
- A summary of media tracking and optimization, by channel, by product, and by audience demographics (e.g., age, gender, race/ethnicity, geographic location), including a summary of real-time digital media monitoring to identify, correct, and prevent delivery of advertising impressions to youth, ages 17 and under, and including a summary of implementation of any corrective and preventive measures, not previously submitted.

#### V. Additional Conditions for Marketing

Under section 911(h)(5) of the FD&C Act, these risk modification orders require you to:

- For any of the products' labeling, advertising, marketing, and/or promotion appearing in your **owned digital properties** (e.g., your company-owned, consumer-directed, product-branded website(s) and/or mobile applications) – whether conducted by you, on your behalf, or at your direction – establish, maintain, and monitor use of independent age- and identity-verification service(s) that compare consumer information against independent, competent, and reliable data sources, such as public records, at the first point of access to such properties, to restrict access to such labeling, advertising, marketing, and/or promotion to only individuals who are at least of federal minimum legal age to purchase tobacco products.
- For any of the products' labeling, advertising, marketing, and/or promotion appearing in any **shared digital properties** (e.g., your product-branded social media accounts, pages and associated content; content promoting your products on your behalf disseminated through another entity's social media accounts) – whether conducted by you, on your behalf, or at your direction – establish, maintain, and monitor use of the available site-, platform- and content- (e.g., post, video) specific age-restriction controls (e.g., age-restrict an entire product-branded account and all associated content disseminated through such account; ensure age-restriction of a specific video disseminated by an influencer promoting the products on your behalf through the influencer's account), at the first point of access to such properties, to restrict access to such

labeling, advertising, marketing, and/or promotion to only individuals who are at least of federal minimum legal age to purchase tobacco products.

- For any of the products' labeling, advertising, marketing, and/or promotion appearing in **paid digital media** (e.g., paid digital banner advertisements for the product(s) running on another company's website; paid advertising for the product(s) running in social media; paid distribution of influencer content) – whether conducted by you, on your behalf, or at your direction:
  - Establish, maintain, and monitor use of competent and reliable data sources, methodologies, and technologies to precisely target delivery of such labeling, advertising, marketing, and/or promotion to only individuals who are at least of federal minimum legal age to purchase tobacco products. Such targeting must use only first- and/or second-party age-verified data, where:
    - “First-party” age-verified data is data owned by you (e.g., your customer registration data collected via site traffic to your company-owned website; data you use in direct marketing to your adult smoking customers) that you have age-verified through independent, competent, and reliable data sources; and
    - “Second-party” age-verified data is first-party data owned and age-verified by another competent and reliable entity (e.g., another company's first-party user registration data) to which you have access. Such data must be age-verified by the second party.
    - “First-party” and “second-party” data does not include data obtained from data aggregators who categorize consumers based on trackable activities and inferred interests (e.g., internet search terms, video interactions, browsing history, purchasing behaviors) to create demographic and psychographic profiles marketers may use to enhance audience targeting. Such data is not considered age-verified and can only be used in combination with first- and/or second-party age-verified data.
- Establish, maintain, and monitor use of competent and reliable data sources, methodologies, and technologies (e.g., using an embedded tracking pixel in all digital advertising) – whether conducted by you, on your behalf, or at your direction – to **track and measure actual delivery of all advertising impressions**, by channel, by product, and by audience demographics (e.g., age, gender, race/ethnicity, geographic location), including a breakout by age-group (i.e., adults, ages 25+; young adults, ages 18-24; and youth, ages 12-17 and ages 11 and under). Such monitoring requires real-time digital media tracking, and identifying, correcting, and preventing delivery of advertising impressions to youth, ages 17 and under. Such monitoring also requires post-launch delivery verification reports be submitted to you from an accredited source.
- For any use of **partners, influencers, bloggers, and/or brand ambassadors** to create labeling for, advertise, market, and/or promote the products – whether conducted by you, on your behalf, or at your direction – disclose to consumers or viewers, via the use of statements such as “sponsored by [firm name]” in such labeling, advertising, marketing, and/or promotional materials, any relationships between you and entities that create labeling for, advertise, market, and/or promote the products, on your behalf, or at your direction.

The requirements above are intended to help ensure that your modified risk tobacco products, as actually used by consumers, will continue to benefit the health of the population as a whole. Limiting youth initiation of the products and, relatedly, youth exposure to advertising and marketing materials for the products are important factors in the population health benefit analysis. Accordingly, FDA also recommends limiting youth-exposure to any of the tobacco products' labeling, advertising, marketing, and/or promotion appearing in print media publications.

After receiving authorization, the determination of whether the eight modified risk General Snus products, as actually used by consumers, continue to benefit the health of the population as a whole

is likely to be driven by use behavior. An uptake in youth initiation and use of the products would have a significant negative impact on the population health benefit analysis. To help ensure that your products, as actually used by consumers, continue to benefit the health of the population as a whole, we strongly recommend that you take measures to limit youth initiation and use of the products, beyond limiting advertising and promotion as required in this order. For example, we strongly recommend you adopt the following measures related to all digital sales of your products:

- For any **digital sales** – whether conducted by you, on your behalf, or at your direction – establish, maintain, and monitor use of independent age- and identity-verification service(s) that compare customer information against independent, competent, and reliable data sources, such as public records, to prevent the sale of the products to individuals who are under the federal minimum legal age to purchase tobacco products.

Relatedly, we request that you submit the following information to CTP on an annual basis:

- A summary of the implementation and effectiveness of any policies and procedures regarding verification of the age and identity of purchasers of the products.
- A summary of the implementation and effectiveness of any policies and procedures regarding restrictions on youth access to the products.

We remind you that if FDA can no longer make the determination that your products, as actually used by consumers, will benefit the health of the population as a whole, FDA must withdraw the modified risk orders, after an opportunity for an informal hearing. See under section 911(j)(1) of the FD&C Act. Although adopting the measures above is not in itself a guarantee that the products will continue to benefit the health of the population as a whole, it is an important step in helping to ensure that there are no grounds for withdrawal of your orders.

## Appendix D Recordkeeping and Retention

The risk modification orders for your modified risk tobacco products are effective for 5 years from the issue date of the orders. If you wish to renew your orders, we recommend you submit a request for renewal 360 days prior to the end of your effective timeframe. In order to help ensure that your risk modification orders meet the standard for renewal and to help expedite the review of any renewal applications, we request that you establish and maintain the records listed below. The records should be retained for a period of not less than four years from the date of distribution of the last batch of the tobacco products listed in your orders under section 911(g)(1). The records should be legible, written in English, and upon request, available for inspection and copying by officers or employees duly designated by the Secretary. Please note that Appendices B and C require you to periodically submit some of these records to FDA (e.g., in PMSS reports and/or advertising and promotion-related reports). Additionally, we remind you that the PMTA orders for your General snus products issued on November 10, 2015, also require you to establish and maintain records, some of which overlap with the records listed below:

- The MRTPAs submitted prior to the orders
- Postmarket reports, as described in the Required PMSS Appendix, including adverse experience reports and all relevant documentation associated with the experience
- Records of all nonclinical or clinical studies, including:
  - Source data;
  - Study protocols (including statistical analysis plan);
  - Amendments showing the dates and reasons for any protocol revisions;
  - Institutional Review Board (IRB) or Independent Ethics Committee (IEC) approvals or non-approvals;
  - Informed consent forms;
  - Correspondence with study monitors/investigators/contract research organizations/sponsors/IRB/IEC;
  - Investigator financial disclosure statements;
  - Progress reports;
  - Monitoring reports;
  - Adverse experience reports;
  - Case report forms/subject diaries/medical records/laboratory reports;
  - Subject data line listings/observation records;
  - Test article accountability records;
  - Study results/protocol summaries/study reports; and
  - Certifications and amendments to certifications
- Records pertaining to the manufacture, in process and release testing, production process (including any changes to the process, facility, or controls), packaging, storage, and stability monitoring and testing (including protocol and results) of the products
- Records pertaining to the sale, distribution, or other disposition of the products, specifically:
  - A list of distributors and retailers of the products, including brick-and-mortar and digital<sup>8</sup>;
  - Any available information (not to include personally identifiable information) about product purchases, such as purchasers' demographics (e.g., age, gender, race/ethnicity, geographic region) and previous or current use of other tobacco products (i.e., dual use);
  - Policies and procedures regarding verification of the age and identity of purchasers of the products; and

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<sup>8</sup> For the purposes of this order, here and throughout the document, "digital" includes internet/online and mobile.



- Policies and procedures regarding restrictions on youth access to the products
- Health hazard analyses, if performed voluntarily or directed by FDA
- Records pertaining to any and all complaints associated with any of the products that you receive or of which you are aware

## Appendix E

### Manufacturing Information

The PMTA orders for your General Snus products, issued on November 10, 2015, require you to report to the FDA manufacturing information. We request that when submitting such reports, you reference both your PMTAs and your MRTPAs for these products. When cross-referencing, please provide the date of submission and location in the submission where the information is covered. When cross-referencing, please provide the date of submission and location in the submission where the information is covered.

For each twelve-month reporting period, the annual reports should include:

- A cover letter that includes the following text in your subject line: **ANNUAL REPORT for MR0000020-MR0000022, MR0000024-MR0000025, MR0000027-MR0000029**. The cover letter should include the STN(s) and corresponding tobacco product name(s), firm name, date of report, reporting period.
- A description of each change made to the manufacturing process, facilities, or controls during the reporting period including:
  - A comparison of each change to what was described in the MRTPAs;
  - The rationale for making each change; and
  - A certification that the reported change did not result in any modification (including a change in design, any component, any part, or any constituent, including a smoke or aerosol constituent, or in the content, delivery, or form of nicotine, or any other additive or ingredient) of the tobacco products and the basis for concluding that each manufacturing change did not result in any modification to the products.<sup>9</sup>
- A summary of all manufacturing deviations, investigations, and corrective and preventive actions, including, but not limited to, those deviations associated with processing, testing, packing, labeling, storage, holding, and distribution and indicate any deviation(s) that may affect the characteristics of the products. For additional information on manufacturing deviations, see below.

#### Manufacturing Deviations

You should promptly investigate all manufacturing deviations including, but not limited to, those associated with processing, testing, packing, labeling, storage, holding, and distribution. The PMTA orders for your General snus products, issued on November 10, 2015, require that, for products that have been distributed, if the deviation may negatively impact public health, you promptly identify and report that deviation to CTP. We request that when submitting such reports, you reference both your PMTAs and your MRTPAs for these products.

#### Discontinuation and Reintroduction

If you discontinue the manufacture, preparation, compounding, or processing for commercial distribution of these modified risk tobacco products and later decide to reintroduce the modified risk tobacco products into the market, please contact the Office of Compliance and Enforcement prior to reintroduction.

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<sup>9</sup> We note that any modifications made to a tobacco product would render it a new tobacco product that would be subject to the premarket review requirements under section 910 of the FD&C Act.