

AMENDMENT NO. 16 TO MASTER SETTLEMENT AGREEMENT

Kretek International, Inc. ("Kretek"), a corporation [*or other entity*] organized under the laws of the State of California, hereby signs and executes the Master Settlement Agreement ("MSA") this 18 day of June, 2001.

A. In addition, notwithstanding sections II(jj) and II(uu) of the MSA, Kretek shall be considered to be a Tobacco Products Manufacturer and a Participating Manufacturer, and each of the companies specified in Exhibit A to this Amendment (collectively the "Foreign Manufacturers/Exporters") shall not be considered to be a Tobacco Product Manufacturer (and each Foreign Manufacturer/Exporter shall for the purposes of the Model Statute set forth in Exhibit T to the MSA only, be considered to be a Participating Manufacturer), provided that:

- (1) Kretek signs the MSA by June 18, 2001 and is bound by such Agreement in all Settling States in which such Agreement binds Original Participating Manufacturers and Subsequent Participating Manufacturers.
- (2) On or before June 18, 2001, Kretek enters into an agreement (an "Exclusive Distribution Agreement") with each of the Foreign Manufacturers/Exporters, such Exclusive Distribution Agreements remain in full force and effect, and all the parties to each respective Exclusive Distribution Agreement fully perform their obligations thereunder. Each Exclusive Distribution Agreement must contain the following terms:
 - (a) The Foreign Manufacturer/Exporter appoints Kretek as its exclusive importer and distributor (other than as set forth in paragraph (d) below) for sale in any state in the United States, including the District

of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands ("the United States") of any and all Cigarettes which are and will be manufactured by the Foreign Manufacturer/Exporter or any licensee or Affiliate of the Foreign Manufacturer/Exporter under trademarks owned by the Foreign Manufacturer/Exporter (or as to which trademarks the Foreign Manufacturer/Exporter has a manufacturing or license agreement with the trademark owner) and exported for intended sale in the United States, subject to the terms and conditions appearing in the Exclusive Distribution Agreement (insofar as such terms and conditions are not inconsistent with paragraphs (A) through (F)). The term "Affiliate" as used herein shall mean a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for the purpose of this definition, the terms "owns," "is owned" and "ownership" means ownership of an equity interest, or the equivalent thereof, of 50 percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization of group of persons.

- (b) Other than as specified in paragraph (d) below, the Foreign Manufacturer/Exporter shall not appoint any person other than Kretek as an additional importer and distributor for sale of the Cigarettes within the United States, nor shall the Foreign Manufacturer/Exporter

sell or distribute the Cigarettes in the United States except through Kretek or market or advertise the Cigarettes in the United States.

- (c) The Foreign Manufacturer/Exporter shall supply the Cigarettes, which shall comply with the requirements or applicable regulations effective in the United States. Kretek shall obtain all the governmental certification, license, permit or approval necessary to import and distribute the Cigarettes in the United States and shall sell the Cigarettes in the United States in strict compliance with any and all laws, regulations and other requirements of federal, state, and local governments and their agencies. Kretek shall be responsible for the payments under the MSA with respect to the Cigarettes, including cigarettes sold in the United States prior to the date of this Agreement for which payment under the MSA has not been made, shall pay the taxes specified in the subsection II(z) of the MSA on the Cigarettes, and shall report the Cigarettes as its shipments in the manner prescribed in subsection II(mm) of the MSA.
- (d) The Foreign Manufacturer/Exporter may sell brands of Cigarettes in the United States through an importer other than Kretek if such importer is an Original Participating Manufacturer that will be responsible for the payments under the MSA with respect to such Cigarettes as a result of the provisions of subsections II(mm) of the MSA and that pays the taxes specified in subsection II(z) on such

Cigarettes, and provided that the Foreign Manufacturer/Exporter does not market or advertise such Cigarettes in the United States.

- (e) Each Exclusive Distribution Agreement between each Foreign Manufacturer/Exporter and Kretek shall be effective on the date of execution of that agreement (which shall be on or before June __, 2001) and shall not be terminated by either party to that agreement unless the Foreign Manufacturer/Exporter in question has appointed another signatory to the MSA as importer for the United States as long as the MSA remains in effect.
- (f) The Settling States and the Original Participating Manufacturers are third-party beneficiaries of each Exclusive Distribution Agreement.

- B. Kretek shall not, after the date it becomes a signatory to the MSA, import, sell or distribute Cigarettes manufactured (or purchased for resale in the States) by a Non-Participating Manufacturer;
- C. For purpose of sections IX(i) and IX(d)(1)(B) of the MSA, Kretek's 1997 and 1998 Market Share shall not include Cigarettes manufactured (or purchased for resale in the States) by any Non-Participating Manufacturer;
- D. If any Foreign Manufacturer/Exporter becomes an Affiliate of an Original Participating Manufacturer, Kretek will not import the Cigarettes of such Foreign Manufacturer/Exporter unless Kretek assumes the payment obligations under the MSA of an Original Participating Manufacturer with respect to all Cigarettes manufactured by (or under trademarks owned by or licensed to) such Foreign Manufacturer/Exporter and imported by Kretek.

E. If Kretek becomes an Affiliate of an OPM, Kretek assumes the payment obligations under the MSA of an OPM with respect to all Cigarettes shipped by Kretek in or to the United States.

All capitalized terms not otherwise defined shall have the meaning given such terms in the MSA.

Dated: 6/15/01
[Moorpark, California]

Kretek International [use official name]

By: 

Name and Title

GR. VICE PRESIDENT -

OPERATIONS & FINANCE