



Memorandum of Understanding - AVCA Approved Vendors (Resellers)

The objective of this Memorandum of Understanding (“MOU”) is to express the willingness of both parties to engage in a collaborative effort to promote, maintain and guarantee the highest standard and quality of vaping equipment and pre made e-liquids available to and for the vapers of Aotearoa New Zealand for the purposes of tobacco harm reduction.

In this context, this MoU covers activities made by the vendor listed below who provide goods and services (imported electronic devices and accessories; premade bottled e-liquid for vaping) to the consumers of New Zealand, and that said vendor agrees to conform to the guidelines within the **AVCA Consumer Bill of Rights** (attached at the end).

This MoU does NOT cover e-juice or equipment manufacture within New Zealand nor does it cover non standard electrical equipment that is not certified by a NZ electrician or regulatory authority acting as same. This MoU covers only those activities that involve the retail sale of wholesale pre-manufactured goods to the public.

1. Parties:

This agreement is between _____ (“Vendor”) and Aotearoa Vapers Community Advocacy (“AVCA”) and is the “agreement of terms” between the aforementioned regarding being an “AVCA Approved” Vendor in New Zealand.

2. Specific Terms:

2.1 Specific activities under this MOU between the two parties are as follows:

- a. Vendor agrees that the vaping products and services that they provide to the consumer are of the highest standard of safety and at a minimum conform to the guidelines as set forth in the **AVCA Consumers Bill of Rights** as it relates to electronic equipment and pre made e-liquid for use in personal vapourisers (including all equipment that is used for vaping, including e-cigarettes, closed tank vapourisers, open tank vapourisers, regulated and mechanical mods, coil atomisers, rebuildable atomisers, rebuilding supplies and batteries).



- b. In return for the vendors compliance to the terms outlined in this MoU they will be afforded the following incentives:
 - i. Free Advertising in social media and on the AVCA website as an AVCA Approved Vendor.
 - ii. Preferential treatment on AVCA Vendor Lists.
 - iii. Referrals from VIF program for equipment and supplies.
 - iv. Waiver of fees for AVCA sponsored vape meets with first right of refusal for events and placements.
- c. Where new higher quality levels and or standards are identified the vendor acknowledges that these improvements will become the new baseline as referred to in clause 2 above.

2.2 Specific activities under this MOU between the two parties are as follows:

- a. Vendor to provide technical assistance to AVCA to carry out activities that will improve or expand the support they provide to the vaping community - vapers, potential vape consumers, and other interested parties, that will benefit the community at large. This may involve providing insight and input into equipment, regulatory actions/collaborations with government and/or troubleshooting.
- b. Vendor agrees to work with and coordinate with AVCA in the development of initiatives to improve and expand support to the vaping consumers that they represent.
- c. Vendor also agrees to allow AVCA to carry out monitoring and evaluation of vendor activities to assess the impact of these activities on consumers and provide AVCA and consumers with a streamlined and effective process towards problem resolution.

3. General Terms:

- 3.1. Duration of MOU: This MOU shall be operational upon signing and will have an initial duration of one year. All activities conducted before this date within the vision of the joint collaboration will be deemed to fall under this MOU.
- 3.2. Coordination: In order to carry out and fulfill the aims of this agreement, each party will appoint an appropriate person(s) to represent its organization and to coordinate the implementation of activities.
- 3.3. Confidentiality: Each party agrees that it shall not, at any time, after executing the activities of this MOU, disclose any information in relation to these activities or the affairs of business or method of carrying on the business of the other without consent of both parties.



- 3.4. Governing Law: Both Parties agree that this agreement is governed by NZ Common Law, which means;
- a. any statute, regulation, bylaw, ordinance or subordinate legislation in force from time to time to which a party is subject;
 - b. the common law and the law of equity as applicable to the Parties from time to time;
 - c. any binding court order, judgment or decree;
 - d. any applicable industry code, policy or standard enforceable by law; or
 - e. any applicable direction, policy, permission, consent, licence rule or order that is binding on a party and that is made or given by any governmental, legal or regulatory body having jurisdiction over a party or any of that party's assets, resources or business, in any jurisdiction that is applicable to the Agreement, and shall be construed accordingly.
- 3.5. Termination of MOU: The partnership covered by this MOU shall terminate upon completion of the agreed upon period. The agreement may also be terminated with a written one month notice from either side. In the event of non compliance or breach by one of the parties of the obligations binding upon it, the other party may terminate the agreement with immediate effect.
- 3.6. Indemnity: The Supplier indemnifies AVCA and it will hold it harmless against all losses, costs, damages, expenses (including legal expenses) suffered or incurred by AVCA arising as a result of, or in connection with any:
- a. wilful default by the Vendor or its Personnel including Third Parties under the Agreement;
 - b. personal injury or death due to a breach of the Agreement or negligence; or
 - c. breach by the Vendor of any legislative or regulatory requirement of the Vendor;
 - d. breach of the confidentiality obligations under the Agreement (including for the avoidance of doubt under clause 2.2.c of the General Terms (Confidentiality)); or
 - e. claim that the use of the Products, and/or documentation, or any Intellectual Property used to provide products, and/or Documentation, infringes any third party's rights.
- 3.7. Extension of Agreement: The MOU may be extended provided the parties agree upon, and can provide the necessary resources.



3.8. Communications: All notice, demands and other communication under this agreement in connection herewith shall be written in English language and shall be sent to the last known address, email, or fax of the concerned party. Any notice shall be effective from the date on which it reaches the other party.

3.9. Assignment: Vendor can not assign the Agreement or Certification to any third party without written AVCA consent, for the avoidance of doubt AVCA Certification and all associated benefits are not transferable upon change of control by any method including sale or transfer of ownership of the Vendor.

3.10. Addendum: Any Addendum to this MOU shall be by agreement, in writing and signed by both parties.

Signed _____ (date) by

_____ Name: _____

For _____ (“Vendor”)

Signed _____ (date) by

_____ Name: _____

For _____ (“AVCA”)



CONSUMER BILL OF RIGHTS FOR VAPERS IN NEW ZEALAND

Purpose: This document outlines those guarantees that the vaping consumers of New Zealand want from New Zealand Vendors of electronic cigarettes/hardware, e liquids and accessories.

RESELLER SPECIFICATION

Vaping product safety and quality - E Liquids

- **E Liquid:**

Consumers need guarantees that all of the e liquid sold in New Zealand conform to the following criteria. This means that all resellers of e liquid in New Zealand who are AVCA approved guarantee that the products they sell conform:

- Child-resistant and tamper-evident packaging
- Marking/statement that sale is for over 18s only
- Allergy warnings for nuts and PG (where appropriate)
- Shelf-life should be indicated, and the product should remain within specification throughout the stated shelf-life
- **Full List of ingredients** - PG/VG and % of each, Flavouring(s). If and when made legal - e liquid containing nicotine must specify amount and warning as required by the government.

Vaping product safety and quality - Hardware

All Equipment:

- All hardware that contains any electrical wiring or switches (as defined by electronic cigarette components that do not include e liquid) shall be fully disclosed as authentic, or if not, clones and advertised/sold as such. Original OEM equipment sold in the original OEM packaging.
- All electrical equipment sold in New Zealand needs to conform to Standards listed under Schedule 4 of the Electricity (Safety) Regulations 2010; AS/NZS 3820:2009 and/or be certified CE (EU Certified for sale).



Batteries and Battery Safety:

- Batteries to be sold in New Zealand are only to be authentic brand name batteries. It is the vendor's responsibility to ensure that all batteries sold under their auspices are authentic brand name batteries and not rewraps.
- Batteries will be sold that are appropriate to the device for which they will be utilised. Customers to be given an explanation of the importance of battery safety including but not limited to the appropriate transportation of batteries in cases or condoms for safety reasons; how to recognise and rectify a damaged battery wrap through rewrapping of battery and/or safe disposal of battery.
- In the occasion where a vendor rewraps a battery, the identity of the wrapped cell must be clearly printed on the wrap itself with all the identifying information that was contained on the original cell.

Mods - Regulated:

Hardware manufacturing recommendations to ensure traceability for all components used in the manufacturing process, thus considerably reducing the negative impact of product recalls should these become necessary; also recommendations for cleaning of hardware prior to shipping/packaging to ensure that microbial contamination is minimised.

- Mod hardware, where electronic circuitry is employed will always be genuine. Vendors will endeavour to advise people to follow the manufacturer's guidelines with regards to Safely charging regulated mods whether they contain an internal battery, a USB port for internal charging of a removable battery or a removable battery that needs to be charged in a separate charging station.

Mods - Unregulated (Mechanical):

- Mechanical mods can pose a significant safety threat in the hands of an ill informed and ill equipped user. Vendors will not supply these devices to new users without making them aware that these are advanced devices and users must have appropriate knowledge of both battery safety and Ohm's Law.
- Online vendors must have an interactive process in place whereby they contact the individual to discuss and assess the consumer's knowledge of battery safety and Ohm's Law, and providing training necessary, prior to finalising the sale.



Atomisers/RBA's:

Atomisers that come with premade coils or RBA's which are rebuildable atomisers (with or without a separate tank part for holding e-liquid).

It will be the sole responsibility and discretion of the vendor if they choose to sell cloned, 1:1 RBA systems and accessories with the proviso that the customer will be advised that the item is either authentic or cloned and that said item is covered for warranty the same as any other item sold.

Procedures for Failure/Defect/Recall:

All products available for retail sale from New Zealand businesses must be safe to use, by law. Suppliers are responsible for the safety of their products and for putting it right if their products are found to have safety issues, ie recalling the products.

This does not override the consumer responsibility for:

- using products safely so you don't hurt yourself or others.
- keeping your products in a safe condition, ie. maintenance.
- acting on recalls once you become aware of them to get the issue sorted.

All equipment sold within New Zealand is guaranteed by the Consumer Guarantees Act.

Procedures for Hardware Failure/Product Defect:

In the event that a product sold by a vendor should be DOA or shown to have defect in manufacturing that is not easily remedied through a simple means (coil change for example), the vendor will offer the consumer an in kind swap of the equipment to replace the defective item. It is the consumer's responsibility to contact the vendor, return the item for inspection and show how the item is in fact defective.

Procedures for Product Recall:

In the event that a particular vaping product is recalled, whether it be e liquid, hardware or batteries, the vendor will make every effort to contact the relevant parties, of said recall and make every effort to reclaim the recalled items as soon as possible and offer replacement in kind.

