

SETTLEMENT AGREEMENT

This Settlement Agreement (this “**Agreement**”) is made and entered into by and between Shenzhen SMOK Technology CO., LTD (“**SMOK**”), a Incorporated company organized under the laws of Shenzhen, China with an address of 3rd floor NO.15 Keji Bei 2nd Road, Nanshan District, Shenzhen China and Mike Saredidine (“**Saredidine**”) an individual citizen of the United States with an address of 22704 Ventura Blvd # 373, Woodland Hills, California United States 91364 (SMOK and Saredidine may be referred to herein individually as a “**Party**” and collectively as the “**Parties**”).

RECITALS

WHEREAS, Saredidine owns United States Patent and Trademark Office (“**USPTO**”) Registration Number 4997336 for the standard character word mark ALIEN VAPE covering, *inter alia*, electronic cigarette liquid, electronic cigarettes, and oral vaporizers for smokers in International Class 034, with an application date of November 17, 2015 and a first use in commerce date of April 15, 2013; and

WHEREAS, Saredidine owns USPTO Registration Number 4517249 for

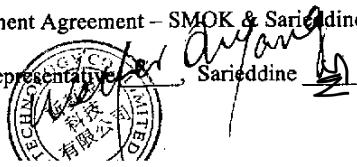


, with the literal element ALIEN VAPE VAPE JUST GOT REAL! Covering electronic cigarette vaporizers for alternative smoking in International Class 034, with an application date of May 02, 2013 and a first use in commerce date of April 30, 2013; and

WHEREAS, Saredidine has used the marks shown in Registration Numbers 4997336 and 4517249 (the “**Alien Vape Marks**”) continuously in interstate commerce since at least as early as April 2013; and

WHEREAS, in 2016 SMOK began using ALIEN as a trademark in connection with the promotion and sale of oral vaporizers and related products; and

WHEREAS, in August 2016 Saredidine contact SMOK, notifying SMOK that its use of ALIEN in connection with oral vaporizers and electronic cigarettes constitutes trademark infringement in violation of Saredidine’s federally registered trademark rights and demanding that SMOK cease its infringing use; and



WHEREAS, the parties wish to settle this matter amicably and wish to set out the parameters of permissible continued use of ALIEN by SMOK.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.** The terms defined in the preamble and recitals have their assigned meanings, and each of the following terms has the meaning assigned to it either in the Definitions section or in the provision in which it first appears below.
 - 1.1. **Effective Date** means the date upon which the last of the Parties executes this agreement.
 - 1.2. **Sarieddine's Alien Vape E-Liquid** means electronic cigarette liquid branded with Sarieddine's Alien Vape Marks.
 - 1.3. **SMOK Website** has the meaning given to it in Section 2.1.1.
 - 1.4. **Distribution Term** means a term of eighteen (18) months, starting within seven (7) calendar days of the Effective Date of this Agreement, or as renewed pursuant to Section 5.
2. **Representations and Warranties.**
 - 2.1. SMOK represents and warrants that:
 - 2.1.1. It maintains a website at the domain address <http://www.smoktech.com/> (the "**SMOK Website**"), through which it markets and sells SMOK products, including products branded with the infringing ALIEN mark;
 - 2.1.2. The SMOK Website has a high visit flow rate through which it can reach a large number of potential consumers and through which it can help to introduce Sarieddine's ALIEN VAPE branded products to more customers worldwide;

- 2.1.3. It has established and mature distribution channels for electronic cigarettes, electronic cigarette liquids (“e-liquids”), and related products, in China;
- 2.1.4. It markets and sells e-liquids and electronic cigarettes on both the wholesale and retail markets in China;
- 2.1.5. It has not applied for registration, anywhere in the world, for any mark containing the word ALIEN;
- 2.1.6. The officer, agent, or representative who executes this Agreement on its behalf has full right, power, and authority to enter into this Agreement and shall have the full right and power to perform the obligations of the Agreement on its behalf.

2.2. Saredidine represents and warrants that:

- 2.2.1. He is the owner of USPTO Registration Numbers 4997336 and 4517249;
- 2.2.2. He is the owner of the Alien Vape Marks;
- 2.2.3. He has used the Alien Vape Marks continuously in interstate commerce since at least as early as April 2013.

3. SMOK’s Covenants and Obligations.

3.1. During the Distribution Term, SMOK shall perform as follows:

- 3.1.1. SMOK shall purchase from Saredidine a minimum of three thousand (3,000) bottles of Saredidine’s Alien Vape E-liquid per month, at a cost of five dollars (\$5 USD) per bottle not including shipping, taxes or duty fees. SMOK shall separately cover the necessary shipping, taxes and duty costs.
- 3.1.2. SMOK shall advertise Saredidine’s Alien Vape E-liquid on the SMOK Website homepage.
 - 3.1.2.1. This advertisement must be shown as a fist slide that is displayed for a minimum of 8 seconds.
 - 3.1.2.2. SMOK may display this advertisement as a half flyer or banner ad with SMOK products being advertised on the other half.
- 3.1.3. SMOK shall advertise and promote Saredidine’s Alien Vape E-liquid on the first page of SMOK’s distribution channel website.

- 3.1.4. SMOK shall advertise and promote Sarieddine's Alien Vape E-liquid in SMOK's email marketing at least once each week.
- 3.1.5. SMOK shall promote Sarieddine's Alien Vape E-liquid on the SMOK Website and shall include Sarieddine's Alien Vape E-liquid in SMOK's marketing plan.
- 3.1.6. SMOK shall promote, feature, and sell Sarieddine's Alien Vape E-liquid in SMOK's online store, whether on the SMOK Website or any other online store maintained or used by SMOK.
- 3.1.7. SMOK shall promote and feature Sarieddine's Alien Vape E-liquid on SMOK's social media accounts and pages, including, but not limited to, Facebook, Twitter, and Instagram. SMOK shall post advertisements featuring Sarieddine's Alien Vape E-liquid on these social media platforms at least once each week during the Distribution Term, either by posting SMOK's independently created advertisements and artwork, or by reposting content posted on Sarieddine's Alien Vape social media. SMOK may include its own SMOK branded products in advertising artwork along with Sarieddine's Alien Vape E-liquid.
- 3.1.8. SMOK shall permit Sarieddine to change the artwork used in connection with advertising and promotion of Sarieddine's Alien Vape E-liquid contemplated in Sections 3.1.2 through 3.1.7 up to three (3) times per month, at Sarieddine's discretion. SMOK may independently create artwork for these advertisements and promotions, but such artwork must be approved by Sarieddine in writing prior to use in connection with Sarieddine's Alien Vape E-liquid.
- 3.1.9. SMOK shall resell Sarieddine's Alien Vape E-liquid at no less than market value. SMOK shall not sell or "dump" Sarieddine's Alien Vape E-liquid at a lower than market value price.
- 3.1.10. SMOK shall distribute Sarieddine's Alien Vape E-liquid in all markets worldwide in which it has established distribution channels, including, but not limited to, China. However, SMOK shall not distribute Sarieddine's



Alien Vape E-liquid in the United Kingdom or France without Saredidine's prior written approval.

3.2. Without Saredidine's prior written consent, SMOK shall not:

3.2.1. Adopt any new trademarks that include the term ALIEN or any confusingly similar term;

3.2.2. Apply for registration anywhere in the world of any trademark that includes the term ALIEN or any confusingly similar term;

3.2.3. Use ALIEN in connection with any new products aside from its Alien Kit product with which it currently uses the ALIEN mark.

3.3. Following expiration of the Distribution Term, SMOK shall forever refrain from using ALIEN or any mark containing the term ALIEN or any similar term in connection with any products or services.

4. Saredidine's Covenants and Obligations.

4.1. During the Distribution Term, Saredidine shall not challenge or interfere with SMOK's continued use of ALIEN in connection with SMOK's Alien Kit oral vaporizer product, provided such use is in compliance with the requirements of Section 3.2 and provided SMOK complies with the requirements of Section 3.1.

5. Renewal of Distribution Term.

5.1. The Parties may renew the Distribution Term for successive twelve (12) month periods, to begin immediately upon expiration of the preceding Distribution Term, for as long as both of the Parties desire to do so.

5.2. A Party desiring to renew the Distribution Term shall submit a written renewal request to the other party, via email, no later than sixty (60) calendar days prior to the expiration of the Distribution Term. The receiving Party shall respond to the renewal request, either confirming or denying the request, no later than thirty (30) days prior to the expiration of the Distribution Term.

5.3. If the Parties agree to renew the Distribution Term, all terms and provisions of this Agreement will remain in effect for the duration of the renewed Distribution

Term unless amended in a writing signed by representatives for each of the Parties.

6. Termination.

- 6.1. Sarieddine may terminate the Distribution Term at any time, for any reason or no reason, by providing thirty (30) days written notice to SMOK of his intention to terminate.
- 6.2. This Agreement will remain in effect following expiration of the Distribution Term.
- 6.3. If either Party decides not to renew the Distribution Term, Sarieddine reserves all rights and remedies available for SMOK's infringement of the Alien Vape Marks.

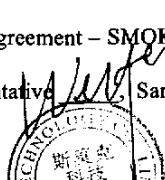
7. Breach and Remedies.

7.1. Damages.

7.1.1. During the Distribution Term, if SMOK fails in any month to purchase the quantity of e-liquid bottles required in Section 3.1.1, SMOK shall pay to Sarieddine an amount equaling the difference between the full monthly purchase amount of \$15,000 USD and the actual amount purchased in that month. If such breach occurs in two (2) or more consecutive months, Sarieddine may terminate the Distribution Term, following which SMOK shall pay to Sarieddine, within thirty (30) days of Sarieddine's termination, a lump sum payment representing the total amount that would be due in the remaining months of the Distribution Term.

7.1.2. During the Distribution Term, if in any month SMOK fails to satisfy the covenants and assurances set forth in Sections 3.1.2 through 3.1.10 SMOK shall pay to Sarieddine \$5,000 per month. The Parties agree that this amount is calculated to represent the amount of lost advertising value Sarieddine will suffer due to SMOK's breach.

7.2. Injunctive Relief. The Parties hereby recognize that Sarieddine is likely to suffer irreparable damage in the event of SMOK's breach of any of the covenants and

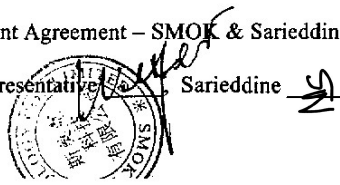


assurances contained in this Agreement. As such, in the event of SMOK's breach or threatened breach of any of the covenants and assurances contained in this Agreement, Sarieddine may enjoin and restrain SMOK from violation or continued violation of said covenant or assurance and may enjoin SMOK from continued use of any mark containing the term ALIEN or any confusingly similar term. SMOK, as a defendant in an injunction action brought pursuant to this Paragraph, hereby waives any defense that there is an adequate remedy at law. Such remedies will not be the exclusive remedies for any breach of this Agreement, but will be in addition to all other remedies available at law or equity to the non-breaching party, including an action for damages.

8. Trademark Acknowledgment. SMOK hereby acknowledges the validity and enforceability of the Alien Vape Marks and agrees not to challenge the validity or enforceability of the Alien Vape Marks. SMOK further agrees not to support, aid or assist any third party in contesting the validity or enforceability of the Alien Vape Marks.
9. Scope. The scope of this Agreement shall be worldwide.
10. Successors in Interest. This Agreement shall be binding on and shall inure to the benefit of the Parties hereto, and their respective successors (including successors in ownership of the marks at issue), assigns, licensors, licensees, subsidiaries, affiliates, agents, servants, and employees, and any entity owned or controlled by either of the Parties.
11. Counterparts. This Agreement may be executed in counterparts, both of which shall be deemed an original and when taken together shall constitute one agreement. Signatures may be provided by facsimile or other electronic transmission, and such signatures shall be fully binding on the party sending the same.



12. Forum Selection. The Parties agree that personal jurisdiction and venue for any dispute arising out of, concerning, or relating to this Agreement or its subject matter are proper in the state and federal courts in and for the State of California, and said courts shall be the sole and exclusive forum for resolution of any such dispute.
13. Attorneys' Fees. In the event of a dispute or litigation that arises from or relates to the terms of this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and expenses.
14. No Waiver. No failure or delay by a Party in exercising any right or remedy under this Agreement shall operate as a waiver of the right or remedy.
15. Validity. If any portion of this Agreement shall be, for any reason, invalid or unenforceable, the remaining portion or portions shall nevertheless be valid, enforceable, and carried into effect, unless to do so would clearly violate the present legal and valid intentions of the Parties.
16. Authority. Each person who signs this Agreement on behalf of any Party to the Agreement represents that he or she has been duly authorized by that Party to enter into this Agreement and to bind the Party.
17. Review by Counsel. The Parties acknowledge that they have had the benefit of counsel, or waived the benefit of counsel. Accordingly, this Agreement shall be construed fairly as to all Parties, and shall not be construed for or against any Party on the basis that such Party participated in drafting it.
18. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained herein, and there are no covenants, terms, conditions, or inducements, express or implied, other than as set forth or referred to herein. This Agreement supersedes all prior agreements between the Parties relating to all or part of the subject matter herein.



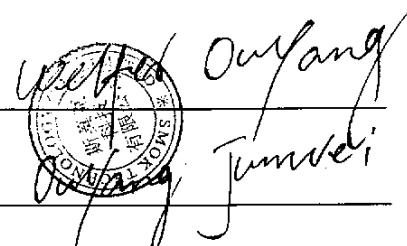
IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed on the dates indicated below.

MIKE SARIEDDINE

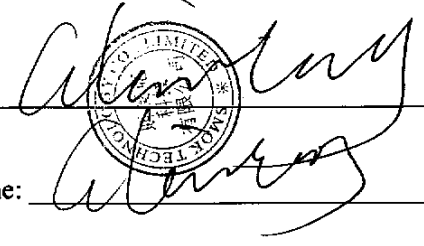


Date: Oct 28, 2016

SHENZHEN SMOK TECHNOLOGY CO., LTD

By: 
Name: OuYang Junwei
Title: CEO

Date: 2016.10.28

By: 
Name: [Signature]
Title: Manager

Date: 2016.10.28