

Memorandum of Understanding

Between

Comptroller of Maryland (COM)

And

Office of the Executive Director of the Maryland Alcohol Tobacco and Cannabis Commission (OED)

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into this 1st day of August by and between the Comptroller of Maryland ("COM") and the Office of the Executive Director of the Maryland Alcohol Tobacco and Cannabis Commission (OED). COM and OED are each a "Party" and may collectively be referred to hereinafter as the "Parties."

WHEREAS, the Maryland General Assembly established the Alcohol and Tobacco Commission ("ATC") and the Executive Director of the ATC ("Executive Director"), pursuant to 2019 Md. Laws, Ch. 12, which, among other things, provided for the transfer of certain duties and responsibilities relating to alcohol and tobacco laws from the Comptroller of Maryland ("COM") to the ATC and Executive Director;

WHEREAS, the Maryland General Assembly further acted to increase the efficiency and accuracy in the performance of the respective duties and responsibilities of the COM, ATC, and Executive Director by enacting 2020 Md. Laws, Ch. 360 and 2022 Md. Laws, Ch. 743;

WHEREAS, the COM and the OED entered into an initial memorandum of understanding on June 22, 2022, which allowed the COM to share administrative services, personnel, equipment, and other organizational resources with the ATC and Executive Director in furtherance of the intent expressed by the Maryland General Assembly.

WHEREAS, the Maryland General Assembly reconstituted the ATC as the Maryland Alcohol Tobacco and Cannabis Commission (ATCC) pursuant to 2023 Md. Laws, Ch. 254 & Ch. 255, and enacted 2023 Md. Laws, Ch. 450, which, among other things, clarified the powers and roles of the ATCC relating to alcoholic beverages, tobacco, and cannabis regulation and enforcement (together, the "Acts").

WHEREAS, the Parties desire to identify the rights and responsibilities of each of the Parties as the ATCC transitions to an independent agency in accordance with the Acts.

NOW THEREFORE, in consideration of the mutual covenants, promises, conditions, representations, and agreements set forth herein, the Parties AGREE AS FOLLOWS:

1. Recitals

The recitals are hereby incorporated into this MOU.

2. Cooperative Agreements (i.e., Enforcement Matters)

The Parties agree to work and cooperate to fulfill their respective duties and responsibilities for alcohol, tobacco, and cannabis tax administration, regulation, and enforcement, in accordance with Maryland law and any appropriate delegation of authority. In the performance of their duties under State law and pursuant to this MOU, the Parties shall work cooperatively and, unless prohibited by law, share information with each other regarding joint enforcement efforts.

When, upon request by the COM, field enforcement agents or inspectors, employed by the OED perform any inspection or enforcement activity that relates to the COM's functions, duties, and/or oversight, those field enforcement agents or inspectors act under the authority of the COM's Field Enforcement Bureau Director.

When, upon request by the OED, field enforcement agents or inspectors, tax collectors or tax auditors, employed by the COM perform any inspection or enforcement activity that relates to the Office of the Executive Director's functions, duties, and/or oversight, those COM field enforcement agents or inspectors, tax collectors or tax auditor, act under the authority of the OED of the ATCC.

Further, the Parties agree to adoption and implementation of a uniform process for an Alcoholic Beverage wholesaler ("Licensee") to submit claims for breakage loss in connection with determining the appropriate gallon amount reported on a Licensee's Maryland alcoholic beverage excise tax return, including use of a form affidavit on which a licensee will report any amount of breakage loss claimed by the licensee. The Parties agree that a licensee will submit the form affidavit to both COM and ATCC. The form affidavit will identify the type of evidence to be retained by the Licensee, the length of time the Licensee must retain such evidence, and provide for random inspection by authorized agents of COM and/or ATCC for an amount of time specified in the form affidavit.

3. Facilities

The Parties agree to use and share the space within the Impound and Storage Lot ("Lot") located adjacent to 7275 Waterloo Road #B, Jessup, Maryland 20794, for the term of this MOU as specified in section 8 below. The Parties will continue to use the Lot, which is owned by the State of Maryland and operated by the Department of General Services, solely to store agency pool vehicles, contraband, and conveyances associated with the seizure of contraband.

The COM agrees to ensure that authorized OED personnel have access to the Lot by the main gate of the COM's Motor Fuel Testing Laboratory, located at 7275 Waterloo Road #B, Jessup, Maryland 20794 to safely secure agency pool vehicles, contraband, and conveyances associated with the seizure of contraband.

The Parties agree that only the OED authorized personnel shall have access to the Lot. Attachment 1 to this MOU contains the current list of personnel authorized by the OED to have Lot access. The Parties further agree that any changes to the list of authorized personnel entitled to Lot access shall be communicated to the COM promptly in writing by sending a revised list of authorized personnel.

4. Information Sharing

Unless prohibited by law, the Parties agree to inform and notify each other about their respective alcohol, tobacco, and cannabis enforcement efforts by transmitting written notices and providing information to each agency's respective Project Managers. The Parties agree to share information derived from their alcohol, tobacco, and cannabis inspections, licensing, audits, and other enforcement actions to enable the Parties to fulfill any legal or contractual obligations to share information with other federal, state, or local entities or agencies. Further, each agency agrees to share the tobacco-related information it collects or



gathers with the Office of the Attorney General for purposes of enforcing the Master Settlement Agreement.

The OED agrees to convey licensing and registration information and the status of licenses to the COM on a routine basis as agreed upon by Project Managers identified in section 9 of this MOU. To support the processing of applications and renewals of licensing and permits, the COM agrees to provide information to the OED about whether a licensee and/or applicant has failed to pay all undisputed taxes and unemployment insurance contributions as required by § 1-210(b) of the Business Regulation Article of the Annotated Code of Maryland.

Unless prohibited by law, the COM agrees to provide to the OED relevant data and information obtained from tax reporting submissions which are necessary to complete mandated reports required of OED by the legislature.

If the COM develops information indicating that a licensee or registrant has taken or failed to take some action or whose conduct otherwise raises concerns about compliance with laws that fall within the ATCC and/or OED's regulatory and enforcement authority, the COM's Project Manager shall notify the OED in writing and coordinate with the OED regarding, and share information about, the COM's investigatory efforts. If the ATCC or OED develops or receives any information indicating that an individual or entity has taken or failed to take some action or whose conduct otherwise raises concerns about compliance with laws that fall within the COM's taxation related authority, the OED shall notify the COM in writing and coordinate with the COM regarding, and share information about, the OED's investigatory efforts.

The COM will identify a point of contact in the Revenue Administration Division identified by position for inquiries by the ATCC related to suspended alcohol transactions issued by the COM for the duration of this MOU, as well as any inquires related to bonds as discussed in section 5 of this MOU.

The COM will also identify a point of contact in the Compliance Division identified by position for information sharing relative to alcohol, tobacco, and cannabis related audits.

The ATCC/OED will identify a point of contact in the ATCC Licensing Unit in connection with matters related to cigarette tax stamp orders and distribution.

a. Mail Forwarding

COM shall promptly forward all paper mail directed to ATCC and sent to COM in error to:

Alcohol, Tobacco, and Cannabis Commission
1215 East Fort Avenue, Suite 300
Baltimore, Maryland 21230

The ATCC shall promptly forward all paper mail directed to the COM and sent to ATCC in error to:

Field Enforcement Bureau
80 Calvert Street
Annapolis, Maryland 21401

The Parties will not auto forward any electronic mail (email).

5. Bonds



All original and updated or renewed alcohol and tobacco bonds, which are currently being stored in filing cabinets located in Suite 310 of the Goldstein Treasury Building at 80 Calvert Street, Annapolis, MD 21401, will remain in their present storage location to be secured and maintained in a manner to be determined by the COM, for the duration of this MOU, unless the Parties agree otherwise in accordance with Section 12 below.

For all future bonds received from applicants for licenses issued by the OED, the Parties agree to share responsibility for receiving and maintaining bonds related to licensed and permitted alcohol and tobacco businesses as described in this subsection. The Parties agree that the OED shall receive, and process bonds submitted in connection with applications for licenses issued by the OED. After processing an application related to an alcohol or tobacco business, the OED shall transmit the bonds and any associated payments to the COM for storage, security, and maintenance. The COM shall have no responsibilities for any bonds that may be required of cannabis businesses. Upon the delivery of any bonds in the possession, custody, or control of the OED to the COM, the COM assumes responsibility for the loss, theft, and destruction of those transferred bonds. The OED assumes responsibility for the loss, theft, or destruction of any bonds while those bonds are in the OED's possession, custody, or control.

The COM will identify a point of contact in the Field Enforcement Bureau identified by position for inquiries by the ATCC related to bond maintenance in connection with the issuance, renewal, or termination of tobacco or alcohol licenses and permits.

6. Records Management

The OED and COM agree to preserve and maintain all records pertaining to the regulation of Alcoholic Beverages, Tobacco, Cannabis, and other licenses and permits in a manner consistent with State law on records preservation, with each Parties' document retention schedules and policies, and with any litigation hold requests. The OED and COM agree to provide one another with reasonable access to relevant stored records that are necessary for the performance of their respective duties and responsibilities. Each Party agrees to abide by all relevant security, confidentiality, and preservation protocols and procedures of the Party storing the records when accessing, storing, communicating, or handling any records.

7. Costs

The Parties shall not charge, bill, or invoice each other for the sharing of field enforcement agents or inspectors to carry out each other's inspection, enforcement, and oversight obligations.

8. Term and Termination

This MOU shall be effective as of the date of the last signature and shall remain in effect through June 30, 2025, subject to such requirements as may be imposed by changes in relevant State laws and regulations or the failure of either Party to meet its obligations under this MOU.

If adequate funds are not appropriated by the General Assembly to sustain this MOU, then either Party may terminate the MOU by giving written notice to the other Party in writing at least 30 days in advance, or otherwise as promptly as possible before termination.

If a Party to the MOU fails to satisfy the MOU requirements, and that failure impairs the performance of the other Party or interferes with the other Party's ability to carry out its respective lawful obligations,



such failure constitutes a material breach. In the event of a material breach, the non-breaching Party shall give written notice of the breach to the breaching Party. If within 15 days of receipt of the written notice, the breaching Party does not begin to correct the breach or, if within 30 days of receipt of notice, the material breach has not been substantially corrected, the non-breaching Party may terminate this MOU without further notice. For purposes of this MOU, "substantially corrected" means that amount of correction that would makes the breach no longer "material."

9. Project Managers

Each of the Parties shall designate a project manager to serve as a point of contact for all actions and who shall have the authority to make management decisions relating to the obligations of their respective Party under this MOU. The Parties may change their project managers by providing written notice to each other. The project manager for the OED shall also serve as the ATCC's project manager. The name, address, and telephone number of the project manager for the OED are:

Jeffrey Hann, Esq.
Assistant Director, Legal and Legislative Division
Alcohol, Tobacco, and Cannabis Commission
1215 East Fort Avenue, Suite 300
Baltimore, Maryland 21230
Jeffrey.hann@maryland.gov

The name, address, and telephone number of the project manager for the COM are:

Charles "Van" Howeth
Acting Director, Field Enforcement Bureau
Or his designee
80 Calvert Street
Annapolis, Maryland 21401
choweth@marylandtaxes.gov

10. Notice

Whenever one of the Parties is required to give notice to other Party, the notice shall be deemed given when sent by electronic mail (e-mail), delivered by hand or by overnight courier, or on the third business day after being mailed by first-class mail addressed as follows:

For the OED:

Jeffrey A. Kelly
Executive Director of the Alcohol, Tobacco, and Cannabis Commission
1215 East Fort Avenue, Suite 300
Baltimore, Maryland 21230
jeffreya.kelly@maryland.gov



With a copy to:

M. Pilar Gracia, Esq.
Counsel to the Alcohol, Tobacco, and Cannabis Commission
Office of the Attorney General
1215 E. Fort Avenue, Suite 300
Baltimore, Maryland 21230
maria.gracia@maryland.gov

For the COM:

Charles "Van" Howeth
Acting Director, Field Enforcement Bureau
Or his designee
80 Calvert Street
Annapolis, Maryland 21401
choweth@marylandtaxes.gov

With a copy to:

Renee Nacrelli
Counsel to the Comptroller
Comptroller of Maryland
80 Calvert Street, Rm 303
Annapolis, MD 21404
rnacrelli@marylandtaxes.gov

Should a Party elect to make delivery by electronic mail, the Party will, on the same day as it sends the e-mail, deliver the notice by hand or post it through first-class mail. The Parties may change their address or designated recipient by giving the other Party written notice of the new address or recipient and the date that the change will be effective.

11. Severability; Construction

If, and only to the extent that, any provision of this MOU is declared or found to be illegal, unenforceable, or void, then the ATCC, the OED, or the COM shall be relieved of all obligations arising under such provision, it being the intent and agreement of the Parties that this MOU shall be deemed amended by modifying such provision to the least extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this MOU is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

12. Entire Agreement and Modification

This MOU, in conjunction with any schedules, addenda, and any terms and conditions from other documents, legislation, laws, or regulations referred to herein or attached hereto, including without limitation those relating to the ATCC, each of which is hereby incorporated, constitute the entire and



exclusive statement of this agreement between the ATCC, the OED, and the COM. There are no oral or written representations, understandings, or agreements relating to this MOU that are not fully expressed herein. The Parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading, applications, internal or external memorandum, reports, letters, notices, bulletins, or other forms utilized or exchanged by the Parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the Parties.

No modification, change, or amendment shall be valid unless it is in writing and signed by an authorized representative of the Party against which such modification, change, or amendment is sought to be enforced.

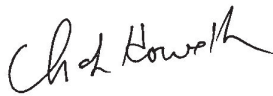
13. Miscellaneous

- a. This MOU shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- b. This MOU shall be binding upon the Parties hereto and their respective successors and assigns and shall inure to the benefit of the Parties and their successors and permitted assigns.
- c. This MOU is entered into solely for the benefit of the Parties hereto and their permitted assigns. No person (other than permitted assigns) shall be deemed a third-party beneficiary of this MOU.
- d. This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docuSign.com), or other transmission method. Any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.


IN WITNESS THEREOF, the Parties have executed this MOU as of the date hereinabove set forth.

AGREED TO BY:

Office of the Comptroller of Maryland

By: 
Name: C. "Van" Howeth
Title: Director, Field Enforcement Bureau
Date: 08/01/2024

Executive Director of the Alcohol, Tobacco, and Cannabis Commission

By: 
Name: Jeffrey A. Kelly
Title: Executive Director, ATCC
Date: 7/18/24



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Assistant Attorney General on behalf of the Office of the Comptroller of Maryland

By: Renee Nacrelli

Name: Renee Nacrelli, Esq.

Title: Counsel to the Comptroller

Date: August 1, 2024

Assistant Attorney General on behalf of the Alcohol, Tobacco, and Cannabis Commission

By: M. Pilar Gracia

Name: M. Pilar Gracia, Esq.

Title: Counsel to the ATCC

Date: 18 July 2024

Attachment 1 – ATCC Roster for Facilities Access

Up to date as of

Agent ID #	Name
0001	Jeff Kelly
0002	William George
0005	Jack Hartzell
0006	James Olienyk
0007	Ted Vaughn
0008	Mark Wright
0009	Dave Marple
0010	Michelle Mangold
0011	Vince Allen
0012	Jack Morgan
0014	Jeff Herndon
0015	Chris Pavon
0016	Michelle Bolden
0017	Walter Daniels
0018	Xavian Watson
0019	Dion Brooks
0020	Kelly Steinhorn
0021	Scott Suriano
0022	Tyler Lewis
0023	Stephen Stouffer
	Ongenette
0024	Washington
0025	Steven Matthews
0026	Mike Sofelkanik
0027	Steve Bowman
0028	James Cannon

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0029 Michael Baskot
0030 Christopher Leisher
0031 Clark Warnick
0032 Jill Murphy
0033 David Ramey
0034 Nathan Roles
0035 Rodger Bennett
0036 Nishelle Jones
0037 Joel Hawk
0038 Jon Morgan
0039 Rhonda Osborne

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