

**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 2nd day of October, 2023 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 (together, the “Parties”) 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 (ATCC) pursuant to 2023 Md. Laws, Ch. 254 and enacted 2023 Md. Laws, Ch. 450, which, among other things, clarified the powers and roles of the ATCC relating to alcoholic beverages and tobacco 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 and tobacco 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 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 act under the authority of the OED of the ATCC.

The COM agrees to maintain and authorize use of the radio frequency currently used by field enforcement agents and inspectors of both agencies to maintain effective radio communications by field enforcement agents and inspectors employed by the OED of the ATCC. Such maintenance and authorization by the COM shall continue until the OED establishes an independent radio frequency for use by its field enforcement agents and inspectors. Once the OED establishes its independent radio frequency, it will no longer be authorized to use the radio frequency maintained by the COM, and the OED shall immediately cease all use of the COM's radio frequency. The OED shall promptly notify the COM when it establishes its own independent radio frequency.

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. Addendum 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 in writing within one business day by sending a revised list of authorized personnel.

The COM agrees to grant the OED temporary access to the storage rooms in the Treasury Building currently used to secure evidence and contraband. The purpose of this access is to allow the OED to complete the sale or destruction of contraband and forfeited property associated with closed cases. Such access shall terminate upon the final sale or destruction of contraband associated with closed cases or on December 31, 2023, whichever is earlier. If the contraband and forfeited property associated with closed cases are not sold or destroyed by December 31, 2023, the OED agrees to remove the remaining contraband and forfeited property from the Treasury Building and to assume responsibility for storing the property at a place of OED's choosing and at OED expense. All contraband and forfeited property not sold or destroyed shall be removed from the Treasury Building storage rooms on or before December 31, 2023.

The COM agrees to allow OED field enforcement agents and inspectors to submit alcohol samples associated with active investigations to the Motor Fuel Testing Laboratory of the COM. The COM agrees to conduct tests on such submissions to support the OED's investigation efforts. This laboratory support shall terminate on December 31, 2023, or upon written notification by the OED's Project Manager to the COM's Project Manager that access is no longer needed, whichever occurs first.

4. Information Sharing

Unless prohibited by law, the Parties agree to inform and notify each other about their respective alcohol and tobacco 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 and tobacco inspections, licensing, 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. Each agency agrees to share the 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 further agrees to provide to the OED relevant data and information obtained from tax reporting submissions which are necessary to complete mandated reports required 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

tax enforcement 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 shall review the list of suspended alcohol transactions as of June 30, 2023, within its Revenue Premier Enterprise (RPE) system to identify misapplied or suspended payments that, to the best of COM's knowledge and belief, should have been applied to alcohol license and permit accounts. The COM shall provide the ATCC with a list that includes the identifying number provided by the licensee, remittance amount, payment received date, the period end date, and the document locator number associated with these transactions. The COM will also identify a point of contact in the Revenue Administration Division, identified by position, within the Office of the COM for inquiries by the ATCC related to the list issued by the COM for the duration this MOU.

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).

b. Maintenance of Web-based Applications and Web Content

COM ITD agrees to maintain the web-based applications and web content listed in Addendum #2 until close of business December 31, 2023. Web content related to alcohol and tobacco tax matters included in the list of items on Addendum #2 may be rebranded and/or republished by either party to reflect the Parties' respective responsibilities.

5. Bonds

All original and updated or renewed alcohol and tobacco bonds currently in the possession of the OED will remain in their present storage location in filing cabinets located in Suite 310 of the Goldstein Treasury Building at 80 Calvert Street, Annapolis, MD 21401, to be secured and maintained in a manner to be determined by the COM.

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 continue to receive and process insurance surety bonds submitted in connection with applications. After processing the related application, the OED shall transmit the insurance surety bonds 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 transfer 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.

If an applicant proposes to submit a cash bond in connection with an application, the OED shall direct the applicant to submit the cash bond directly to the COM. The COM agrees to promptly notify the OED of the receipt of any cash bonds to facilitate the efficient processing of the application. If the OED should receive a cash bond from an applicant, the OED agrees to promptly deliver the cash bond to the COM's Field Enforcement Bureau within five (5) business days of the receipt of the instrument.

6. Records Management

The OED and COM agree to preserve and maintain all records pertaining to the regulation of Alcoholic Beverages, Tobacco, and other licenses and permits in a manner consistent with State law on records preservation, with each agencies' 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 entity agrees to abide by all relevant security and preservation protocols and procedures of the agency storing the records when accessing, storing, 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.

The OED agrees to reimburse the COM for the billable hours of work performed by the assistant attorney general assigned by the Office of the Attorney General to represent the OED and ATCC who is compensated by the COM's. The need for such support shall terminate upon the appointment of a dedicated Assistant Attorney(s) General to the OED as an independent State agency.

The OED agrees to reimburse the COM for any early contract termination fees incurred when transferring to a new cellphone plan.

8. Term and Termination

Except for the specific termination dates identified in Sections 3 of this MOU, this MOU shall be effective as of the date of the last signature and shall remain in effect through June 30, 2024,

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 make the breach no longer "material."

9. Project Managers

The Parties shall designate project managers 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 Agencies under this MOU. The Agencies 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
State of Maryland
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:

Chuck Ulm
Director, Field Enforcement Bureau
Or his designee
80 Calvert Street
Annapolis, Maryland 21401
culm@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, ATCC
1215 East Fort Avenue
Baltimore, Maryland 21230
jeffreya.kelly@maryland.gov

With a copy to:

M. Pilar Gracia, Esq.
Office of the Attorney General
1215 E. Fort Avenue, Suite 300
Baltimore, Maryland 21230
maria.gracia@maryland.gov

For the COM:

Chuck Ulm
Director, Field Enforcement Bureau
80 Calvert Street
Annapolis, Maryland 21401
culm@marylandtaxes.gov

With a copy to:

Renee Nacrelli
Counsel to the Comptroller
Comptroller of Maryland
301 W. Preston St., Ste. 410
Baltimore, MD 21201
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. the Project Managers.

No modification, change, or amendment shall be valid unless it is in writing and signed by the Parties. 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 ESIGN 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.

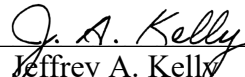
IN WITNESS THEREOF, the Parties have executed this MOU as of the date hereinabove set forth.

AGREED TO BY:


Office of the Comptroller of Maryland

By: 
Name: Chuck Ulm
Title: Director, Field Enforcement Bureau
Date: 10/17/2023

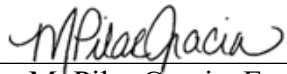
Executive Director, Alcohol, Tobacco, and Cannabis Commission

By: 
Name: Jeffrey A. Kelly
Title: Executive Director
Date: 10/24/2023

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

By: 
Name: Renee Nacrelli, Esq.
Title: Counsel to the Comptroller
Date: 10/13/2023

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

By: 
Name: M. Pilar Gracia, Esq.
Title: Assistant Attorney General
Date: 10/25/2023

Addendum #1 - Facilities Access

- 1) William George
- 2) Jack Hartzell
- 3) Jeffrey Herndon
- 4) Michelle Mangold
- 5) James Olienyk
- 6) Jack Morgan
- 7) Mark Wright
- 8) Theodore Vaughan
- 9) David Marple
- 10) Walter Daniels
- 11) Scott Suriano
- 12) Michelle Bolden
- 13) Dion Brooks
- 14) Kelly Steinhorn
- 15) Ongenette Washington
- 16) Vincent Allen
- 17) Xavier Watson
- 18) Stephen Stouffer
- 19) Daniel Pavon
- 20) Tyler Lewis
- 21) Mark Baton

Addendum #2 – Maintenance of Web-based Applications

ATCC related webpages

<https://www.marylandtaxes.gov/divisions/atc/index.php>
https://www.marylandtaxes.gov/divisions/atc/atc_summit.php
<https://www.marylandtaxes.gov/divisions/atc/mou.php>
<https://www.marylandtaxes.gov/divisions/atc/agendas.php>
<https://www.marylandtaxes.gov/divisions/atc/minutes.php>
<https://www.marylandtaxes.gov/divisions/atc/videos.php>
<https://www.marylandtaxes.gov/divisions/atc/members.php>

Wholesale Cost of Doing Business Calculators

<https://www.marylandtaxes.gov/online-services/tax-calculators-alt-min-price250.php>
<https://www.marylandtaxes.gov/online-services/tax-calculators-alt-min-price.php>

License and Permit Database Query

<https://interactive.marylandtaxes.gov/webapps/licprt/>

Credit Control

<https://interactive.marylandtaxes.gov/webapps/creditcontrol/default.asp>

Alcohol License Application Forms

<https://www.marylandtaxes.gov/business/alcohol/alcohol-tax-forms.php>

Tobacco License Application Forms

<https://www.marylandtaxes.gov/business/tobacco/tobacco-tax-forms.php>

Alcohol and Tobacco Bulletins

<https://marylandtaxes.gov/pros/tax-bulletins/>

Alcohol and Tobacco Administrative Releases

<https://www.marylandtaxes.gov/pros/admin-releases/index.php>

Alcohol and Tobacco Tax Reports

<https://www.marylandtaxes.gov/reports/alcohol-and-tobacco.php>