

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
LOUISIANA SALES AND USE TAX COMMISSION FOR REMOTE SELLERS
AND THE LOUISIANA DEPARTMENT OF REVENUE**

A. PARTIES: The parties to this Memorandum of Understanding (“MOU”) are the:

1. Louisiana Sales and Use Tax Commission For Remote Sellers (the “Commission”), an entity established within the Louisiana Department of Revenue as set forth under La. R.S. 47:339 *et seq.* and herein represented both by Darlene Allen in her official capacity as the duly elected Chairman of the Commission and Jeffery LaGrange in his official capacity as the duly elected Vice Chairman of the Commission; and,
2. Louisiana Department of Revenue (the “Department”), a statutory department of Louisiana state government created pursuant to La. R.S. 36:451 and responsible for the collection and enforcement of taxes, penalties, interest, and other charges that may be due under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as any and all of its successors, heir and assigns, and represented herein by Kimberly Lewis Robinson, in her official capacity of Secretary of Revenue pursuant to La. R.S. 36:453.

B. RECITALS:

WHEREAS, both the Commission and the Department (hereinafter referred to collectively as the “Parties”), through their duly authorized representatives are entering into this MOU (or “Agreement”) pursuant to the laws of the State of Louisiana, as of the effective date set forth by this Agreement;

WHEREAS, La. R.S. 47:339(A) creates and establishes the Commission within the Department for the administration and collection of sales and use tax imposed by the state and political subdivisions with respect to remote sales;

WHEREAS, La. R.S. 47:340(E)(3) provides that the Commission and its operations are to be funded by an amount equal to actual expenses incurred, which amount shall not exceed one percent (1%) of the total amount of state and local sales and use tax collected on remote sales by the Commission;

WHEREAS, La. R.S. 47:340(G)(6)(b) provides that the Commission shall begin enforcement of registration and collection by remote sellers in the state of Louisiana no later than July 1, 2020 (the “Effective Date”);

WHEREAS, in order for the Commission to begin enforcement by July 1, 2020, it was, and continues to be, necessary for the Commission to incur costs and expenses for materials, services, and personnel to design, implement, and maintain an integrated tax registration, filing, and collection system, including, but not limited to, expenses for creating an electronic registration and filing system and wage and benefits compensation of employees to manage and maintain its operations. It was necessary for the Commission to incur the costs and expenses prior to the Effective Date, but before any collections were made by it. However, the only statutorily authorized funding available to the Commission is from collections that will occur after the Effective Date;

WHEREAS, the Department has authorized expenditures against its own budget for the benefit of the Commission representing reasonable sums necessary to maintain operations, develop, and have a registration and collection system in place by the Effective Date;

NOW THEREFORE, with the paragraphs above collectively describing the public purpose of this MOU, and in consideration of the mutual covenants herein contained, this MOU sets forth the understanding between the Commission and the Department with respect to such expenditures and other matters related to the operation of the Commission within the Department, as follows:

C. EXPENDITURES BY THE DEPARTMENT FOR THE BENEFIT OF THE COMMISSION

1. The Parties agree and acknowledge that the Department has paid or incurred liability for payment of the expenditures for the benefit of the Commission (the "Expenditures") as identified in Exhibit A hereto on. The Parties acknowledge that the Expenditures identified in Exhibit A are complete to the best of the knowledge of both Parties as of the date hereof. The Parties also acknowledge that the Expenditures identified in Exhibit A may not reflect all Expenditures incurred by the Department on behalf of the Commission to date, including, but not limited to, labor expenses incurred by the Department in the form of employees of the Department performing work on behalf of the Commission. The Parties also acknowledge that the Department is continuing to incur Expenditures on behalf of the Commission, which Expenditures will also require repayment by the Commission. Therefore, both Parties acknowledge and agree that Exhibit A will be modified and updated from time to time as required to reflect additional actual Expenditures incurred by the Department of behalf of the Commission.
2. The Commission acknowledges that the Department's payment of the Expenditures identified in Exhibit A, as well as any future Expenditures paid by the Department on behalf of the Commission, whether paid directly to the Commission or to a third party on behalf of the Commission, including, but not limited to, compensation of Commission employees, constitute expenses by the Department to the Commission and are to be repaid in full by the Commission to the Department as set forth herein. As authorized by Article 7, Section 6 of the Louisiana Constitution and in security thereof, the Commission pledges the full faith and credit of the State of Louisiana as collateral for the repayment due pursuant to the terms of this MOU.
3. The Commission shall repay all Expenditures in good faith and as soon as practical following the Commission's retention of the one percent (1%) collection fee described in LA R.S. 47:340(E)(3). Repayments shall commence no later than November 30, 2020 and shall be made on at least a monthly basis, no later than the 10th day of each calendar month.
4. The Commission shall dedicate no less than twenty percent (20%) of its one percent (1%) collection fee to the repayment of Expenditures to the Department until all Expenditures are repaid to the Department in full. Amounts paid by the Commission to the Department shall be credited against the Expenditures based on the date advanced with the oldest advancements being credited first.
5. The Commission may make repayments more frequently than the minimum set forth in Paragraph 3 hereof and/or in sums greater than the minimum set forth in Paragraph 4 hereof without penalty.
6. The liabilities and repayment obligations arising under this MOU shall be monitored by the Commission's Executive Director and her staff and the Department's Undersecretary and Financial Services Division. The Parties shall provide regular accountings and reports.

D. RIGHTS AND RESPONSIBILITIES OF THE COMMISSION

1. Notwithstanding any provision of this MOU to the contrary, and in respect and acknowledgment of La. R.S. 36:459(A), all Expenditures shall be submitted in writing by the Commission's Chairman and Executive Director for approval by the Department's Undersecretary. This prior written approval applies to future Expenditures, including, but not limited to, employee compensation, rental reimbursement, and operating expenses. The Parties hereby acknowledge that the Department is not legally obligated, or bound by the terms of this MOU or under any other statutory or contractual obligation, to make any Expenditures. All Expenditures are at the sole discretion of the Department and are subject to the budgetary authority of the Department.
2. The Commission shall be responsible for its own legal representation, including, but not limited to, litigation expenses, court costs, and attorney fees. Notwithstanding any provisions of Section E (2), the Department shall not provide legal counsel or representation to the Commission. In the event that any lawsuit or action is filed by or against the Commission, it shall be the responsibility of the Commission to assert, defend, and pay the costs of any such lawsuit. The Department shall not be responsible for or advance any monies to the Commission for the costs of maintaining or defending any lawsuit or other legal, judicial, administrative, or similar proceeding.
3. The Commission shall indemnify, reimburse, and hold harmless the Department, its employees, appointed officials, and agents against any and all losses, claims, damages, liabilities or expenses, joint or several, to which such indemnified party may become subject under any statute or at law or in equity or otherwise, and shall reimburse any such indemnified party for any legal or other expenses incurred by it in connection with investigating any claims against it and/or defending any actions, insofar as such losses, claims, damages, liabilities, or expenses arise out of or are based upon any action of the Commission, its members, contractors or employees, including, but not limited to, the creation and maintenance of a registration and collection system and/or database for the reporting and collection of sales and use tax on remote sales or any audit arising from or relating thereto. This paragraph shall extend to any matters relating to whether or not transactions, persons, or entities constitute remote sales or remote sellers.
4. The Commission shall repay all Expenditures made by the Department on its behalf as set forth in Section C of this MOU. The Commission shall pay the reimbursements for use of Department space and employees as set forth in Sections E(1) and (2) of this MOU.
5. Notwithstanding Section E(3), the Commission acknowledges that even though it is established within the Department pursuant to La. R.S. 47:339(A), its operations and all records and systems that it maintains for its mandated purpose are separate and distinct from those of the Department.

E. RIGHTS AND RESPONSIBILITIES OF THE DEPARTMENT

1. The Department, subject to Office of State Buildings rules and regulations, may make space available on the first floor of the LaSalle Building for use by the Commission in its operations. The Commission shall provide reimbursement to the Department of the Department's rental costs on a pro-rata square foot basis per month based on the actual square footage used by

the Commission, as invoiced by the Department. Rental reimbursements shall be due upon receipt of invoice. The rental reimbursements shall be subject to the same terms and conditions as other Expenditures made by the Department on behalf of the Commission as set forth in Section C of this MOU. The Department reserves the right to relocate the space provided to the Commission at the discretion of the Department.

2. Upon request of the Commission, the Department may, at its sole discretion, make employees available to perform work on behalf of the Commission. Examples of such work include, but are not limited to, IT support, development of forms, rulemaking activities, and drafting of guidance.
 - a. Notwithstanding the provisions of this Section, the Parties acknowledge that neither the Department or its employees or appointed officials will provide legal counsel or services to the Commission, nor act as attorney or counselor at law to the Commission.
 - b. The Department's obligations hereunder are limited to drafting rules and guidance at the request of and pursuant to the direction of the Commission. The Department and its employees and appointed officials will not evaluate the positions taken by the Commission, nor make any guarantee as to the outcome, validity, or defensibility of such positions, or any liabilities or obligations that may result therefrom. The Commission expressly acknowledges that it relieves the Department and its employees and appointed officials from any liability for performance of such services and that the performance of such services does not create an attorney-client relationship. The Parties acknowledge that the provision of drafting services shall not be construed as the provision of legal services or legal advice by the Department or its employees, appointed officials or agents to the Commission.
3. The Department is and shall remain the owner of any tangible or intellectual property that it purchases, or pays for the development of, on behalf of the Commission, including, but not limited to, the registration, filing, and collection system developed by Avenue Insights. Upon full repayment of the purchase price and/or development costs, and any ongoing maintenance costs, the Department may transfer ownership of such property or systems to the Commission pursuant to a separate stand-alone Act of Transfer to be determined jointly by both Parties at the time of such full repayment.

F. LIAISON OFFICIALS

The primary points of contact for the implementation of this MOU, and any notices required to be given hereunder, shall be as follows:

1. On behalf of the Commission:

Renee Roberie
Executive Director
Louisiana Sales and Use Tax Commission For Remote Sellers
P.O. Box 2068
Baton Rouge, LA 70821

2. On behalf of the Department:

Kevin Richard
Deputy Secretary
Louisiana Department of Revenue
P.O. Box 66258
Baton Rouge, LA 70896

G. MISCELLANEOUS PROVISIONS

1. Term. The term of this MOU shall commence on July 1, 2018, and shall continue in effect until the later of (1) the full repayment of all expenditures incurred by the Department on behalf of the Commission, or (2) the written concurrence of the Parties to terminate this MOU.
2. Confidentiality Statement. The Commission and the Department shall abide by the Federal and State laws and regulations concerning confidentiality, which safeguards the information and the taxpayer's confidentiality (42 U.S.C. 602 and LA. R.S. 46:56 and 47:1508).
3. Modifications or Amendments. This MOU may not be amended, supplemented, or modified, except in writing and executed by the Parties hereto.
4. Entire Agreement. This MOU and the Exhibits hereto shall constitute the entire understanding between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. There is no representation or warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this MOU.
5. Further Assurances. From time to time hereafter, the Parties hereto shall execute and deliver such additional instruments, certificates or documents, and take all such actions as each party hereto may reasonably request for the purpose of fulfilling its obligations hereunder. Specifically, the Parties agree that they will cooperate with the updating of Exhibit A hereto to accurately reflect Expenditures incurred by the Department on behalf of the Commission.
6. Severance. To the fullest extent possible, each provision of this MOU shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision or a portion of any provision of this MOU shall be prohibited or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this MOU.
7. No Personal Liability. No covenant or agreement contained in this MOU shall be deemed to be the covenant or agreement of any member, official, trustee, officer, agent, employee or appointed official of the Department or Commission in his individual capacity, and neither the officers thereof nor any official executing this Agreement shall be liable personally with respect hereto or be subject to any personal liability or accountability by reason of the execution and delivery of this MOU.

8. Captions. The captions or headings in this MOU are for convenience only and in no way define, limit or describe the scope or extent of any of the provisions of this MOU.
9. Counterparts. This MOU may be executed in several counterparts, each which shall be an original and all of which when taken together shall be deemed one and the same Agreement.
10. Governing Law. This MOU shall be construed in accordance with and governed by the laws of the State of Louisiana.
11. No Legal Advice. The Commission acknowledges that it has had the opportunity to review this MOU with its own legal counsel and advisors. The Commission is relying solely on such counsel and advisors and not on any statement or representations of the Department or its employees or appointed officials with respect to this MOU.
12. Execution. For the faithful performance of the terms of the MOU, the Parties, by their authorized representatives in their capacities as stated, affix their signatures and agree to be bound by the provisions hereof. This MOU has been made and executed by the Parties in duplicate. The effective date of this MOU will be July 1, 2018. The Parties acknowledge that this MOU is applicable to Expenditures by the Department to, on behalf of or for the benefit of the Commission prior to that date.


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SIGNATURES ON THE FOLLOWING PAGE**


THUS DONE AND SIGNED in Baton Rouge, Louisiana on the 18th day of November, 2020 in the presence of the witnesses who have affixed their names below.

WITNESSES:

Louisiana Department of Revenue


Name: Marisha Patterson

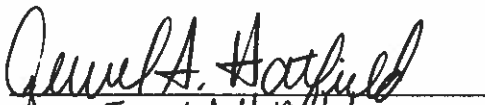

Name: Kimberly L. Robinson
Secretary
Louisiana Department of Revenue



Name: Kyriss A. Thomas

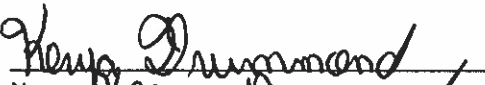
THUS DONE AND SIGNED in Baton Rouge, Louisiana on the 12th day of November, 2020 in the presence of the witnesses who have affixed their names below.

WITNESSES:

**Louisiana Sales and Use Tax
Commission for Remote Sellers**


Name: Jewel A. Hatfield



Name: Darlene Allen
Chairman
Louisiana Sales and Use Tax
Commission for Remote Sellers



Name: Kenya Drummond

THUS DONE AND SIGNED in Baton Rouge, Louisiana on the 12th day of November, 2020 in the presence of the witnesses who have affixed their names below.

WITNESSES:

**Louisiana Sales and Use Tax
Commission for Remote Sellers**


Name: Jewel A. Hatfield


Name: Jeffery LaGrange
Vice Chairman
Louisiana Sales and Use Tax
Commission for Remote Sellers

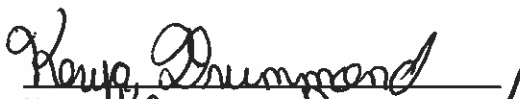

Name: Kenya Drummond

Exhibit A

Expenditures incurred by the Department on behalf of the Commission:

Salaries:	\$ 24,607.61
Other Compensation:	\$ 2,308.00
Benefits:	\$ 12,186.15
Desktop and laptops:*	\$ 250.00
Email addresses:*	\$ 20.00
EUC charges for support:*	\$ 360.00
Equipment Rental (printer/copier):*	\$ 195.00
Data lines & Circuits:	\$ 40.00
5 Phone lines:*	\$ 135.00
Servers/storage/connectivity:*	\$ 4,000.00 (estimate)
MIFI:*	\$ 44.00
URL purchase	\$ 319.98
Quickbooks	\$ 4,334.55
Avenue Insights software license/install:	\$221,075.00
LDR technology support:	\$ 4,650.00

*denotes a recurring monthly expense