

VOLUNTARY DISCLOSURE PROGRAM
SETTLEMENT AGREEMENT AND MUTUAL RELEASE
A000000

(THIS AGREEMENT HAS IMPORTANT LEGAL CONSEQUENCES. READ IT CAREFULLY BEFORE SIGNING.)

- A. **Parties:** This Settlement Agreement and Mutual Release (“Agreement”) is entered into by [] (Account No. []) (“Taxpayer”) and the Colorado Department of Revenue (“State”) (collectively, the “Parties”).
- B. **Recitals:** This Agreement provides a reprieve from penalties for tax amounts voluntarily disclosed and remitted to the State as stated below in paragraph (C)(2)(c). It also provides a reprieve from taxes and interest thereon as specified below in paragraph (C)(2)(d).
- C. **Agreement:** In recognition of the Taxpayer’s decision to address its tax liability with the State, the Parties agree as follows:
 1. **Facts; Taxpayer’s Representations; Material Inaccuracies or Omissions.**
 - a. Taxpayer has prepared a statement of facts, which is set out in Exhibit A to this Agreement. The Taxpayer warrants that the facts, as reflected in Exhibit A, are true. The Taxpayer further warrants that it has, in Exhibit A, fully disclosed all relevant and material facts and has done so in order to induce the State to accept this Agreement. The Taxpayer further understands that the Agreement is entered into by the State in reliance on Exhibit A.
 - b. If any material facts set out in Exhibit A are incorrect or if any material facts are omitted from Exhibit A, the State may void this Agreement at its sole discretion.
 - c. The Taxpayer agrees to make all its books and records available to the State or its agent upon reasonable notice.
 - d. Exhibits A and B are subject to the terms of this Agreement. If Exhibits A or B include any proposed terms of agreement, they are not binding on the State.
 2. **Scope:**
 - a. The Taxpayer believes that the Taxpayer is under an obligation either to collect and remit or to pay on its own account the taxes listed in Exhibit B attached hereto.
 - b. This Agreement does not concern any tax periods or tax types that are not listed in Exhibit B.
 - c. So long as the Taxpayer is not in breach of this Agreement, the State agrees [not to assess penalty/to assess penalty only at the rate of 0%] on any amounts remitted to the State and reflected in the Taxpayer Returns submitted according to paragraph (3), below.
 - d. So long as the Taxpayer is not in breach of this Agreement, the State further agrees [not to assess income and/or sales and/or use] tax and interest thereon attributable to any time period prior and including [date before which limitations period is would be closed, regardless if taxpayer had timely filed all relevant returns].
 - e. The Taxpayer waives all arguments based on nexus or jurisdiction for the tax types and tax periods reflected in Exhibit B.

3. **Taxpayer's Returns:** The Taxpayer shall file tax returns and make a lump-sum payment of all tax amounts due for all tax types and tax periods identified by the Taxpayer on Exhibit B attached hereto. The returns and payment must be received by the State within 60 days of the Effective Date of this Agreement. Taxpayer also agrees to pay interest at the statutory rate [and penalty, as applicable,] as calculated by the State after the State's receipt of the lump sum payment, and to remit such payments within 30 days of receipt of the State's calculation. The Taxpayer may make the payment(s) and file the returns through **hand-delivery** at the following address:

Colorado Department of Revenue
Voluntary Disclosure
Attn: Sammy Khakame
1375 Sherman St, Room 634
Denver, CO 80203

Alternatively, the Taxpayer may make the payment(s) and file the returns through **certified U.S. Mail** to the following address:

Federal Express, UPS or another courier: Colorado Department of Revenue Attn: Sammy Khakame 1881 Pierce Street, Room 128 Lakewood, CO 80214	U.S. Postal Service: Colorado Department of Revenue TAC-Discovery, Rm128, Attn: Sammy Khakame PO Box 17087 Denver CO 80217-0087
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4. **[Compliance with Licensing Requirements:** The Taxpayer will, no later than 30 days after the Effective Date of this Agreement, complete and return all sales tax license applications and will pay all related fees required by the Colorado Department of Revenue.]
 5. **Taxpayer's Failure to Comply with Paragraph (C)(3); Audits:** The Taxpayer acknowledges that, aside from the [waiver/reduction] of penalty, its returns filed under paragraph (C)(3) shall be subject to the same procedures as any other return of the same type. The Department shall, at its discretion, have the authority to audit the returns. The statute of limitations for the Department's review of the returns shall not be any less than three years from the date of filing of the return(s), except as agreed in paragraph (C)(2)(d) above. Any amounts due in excess of those included in the Taxpayer's Returns as filed under paragraph (C)(3) will not be subject to a reduction of penalty under the terms of this Agreement.
- D. **Consideration:** The Parties enter into this Agreement based on the valuable consideration and mutual promises described herein, the receipt and adequacy of which is specifically acknowledged by each Party.

- E. **Mistake; Legal Developments:** The Taxpayer expressly recognizes that there may be facts about which the Taxpayer is unaware or mistaken that could affect the Taxpayer's evaluation of the Taxpayer's liability under the Notice(s) of Deficiency. The Taxpayer further recognizes that the Taxpayer's understanding of the legal issues may be incorrect or may be affected by future legal developments. The Taxpayer expressly accepts these risks and freely enters into this Agreement as a means of avoiding further costs, inconvenience, and litigation risk.
- F. **Agreement Freely Executed; Opportunity to Seek Advice:** Each Party acknowledges and represents (1) that it has fully and carefully read and considered this Agreement prior to signing it; (2) that it has had the opportunity to make whatever investigation or inquiry it deems necessary or appropriate in connection with the subject matter and consequences of this Agreement; (3) that it has had the opportunity to seek legal, financial, and other types of advice that may bear on its decision to enter into this Agreement, as seems appropriate to it; and (4) that it is signing this Agreement voluntarily and free from any undue influence, coercion, duress, or fraud of any kind.
- G. **Interpretation and Construction:** Nothing in this Agreement shall be construed as a generally applicable policy statement by the Department. No inferences are to be drawn from this Agreement concerning other taxpayers, tax years, documents, audit periods, refund periods, or types of taxes. The Parties do not relinquish or release any claims or causes of actions against any person who is not a party to this Agreement.
- H. **Entire Agreement; Modification:** This Agreement contains the entire understanding between the Parties. No prior or contemporaneous addition, deletion, or other amendment shall have any force or effect. No subsequent modification shall have any force or effect unless embodied in a written amendment or other agreement executed by all Parties.
- I. **Execution; Authority to Execute:** This Agreement is effective upon execution by both Parties. Each signatory expressly represents and warrants that he or she has full authority to execute this Agreement on behalf of the Party designated.
- J. **Counterparts; Electronic Signature:** This Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Agreement, and all of which together constitute a single instrument. An electronic signature shall be valid as if it were a physical signature.
- K. **Successors and Assigns:** This Agreement and any amendments to it shall be binding on the Parties, their successors, and their assigns.
- L. **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable (in whole or in part) for any reason, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent permitted by law.

- M. **Choice of Law; Forum Selection:** This Agreement and any claims arising under it shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado irrespective of any choice of law principles that may otherwise apply. The venue for any litigation arising out of this Agreement shall be in the District Court for the City and County of Denver, State of Colorado.
- N. **Costs:** The Parties shall each bear their own costs, expenses, and attorney's fees incurred in connection with the Notice(s) of Deficiency and the negotiation and drafting of this Agreement. In the event of subsequent litigation regarding this Agreement or the Notice(s) of Deficiency, costs, expenses, and attorney's fees shall be awarded as provided by Colorado law.
- O. **Confidentiality:** The Parties recognize that this Agreement is subject to §39-21-113, C.R.S.
- P. **Effective Date:** This Agreement is entered into as of [] (the "Effective Date").

Colorado Department of Revenue

By: _____
Sammy Khakame

Taxpayer

For: _____
Taxpayer Name

Title: Program Administrator

By: _____

Date: _____

Title: _____

Date: _____

AGREEMENT FOR REGISTRATION AND PAYMENT OF STATE TAXES

EXHIBIT A
A000000

_____ [the "Taxpayer"]

STATEMENT OF REPRESENTATIONS AND INDUCEMENT

