



CITY OF UTQIAGVIK

“Farthest North Incorporated City”

| | |
|-------------------------|---------------------------------|
| INTRODUCED BY: | Elizabeth Asisaun Toovak, Mayor |
| DATE OF INTRODUCTION: | April 27, 2023 |
| DATE OF PUBLIC HEARING: | April 27, 2023 |
| ACTION: | |
| VOTE: | |

CITY OF UTQIAGVIK, ALASKA

RESOLUTION #5-2023

A RESOLUTION APPROVING THE ENGAGEMENT OF TRIBN, LLC AND AUTHORIZING THE MAYOR TO EXECUTE THE FINANCING CONSULTANT SERVICES AGREEMENT WITH TRIBN, LLC

WHEREAS the City Council of the City of Utqiagvik (“City”) desires to engage a consultant to provide financial consulting services to the City;

WHEREAS the City solicited bids from multiple consultants to provide financial consulting services before selecting the bid provided by TRIBN LLC, an Alaska limited liability company (the “Consultant”);

WHEREAS, pursuant to Sections 4.16.100(A) and (B) of the City’s Code of Ordinances (the “Code”), the City Council must approve all professional services contracts based upon the competence, skill, and experience of the professional services provider;

WHEREAS, the City Council desires to approve the Consultant Services Agreement with the Consultant (the “Agreement”), attached as Exhibit A, and to authorize the Mayor to execute the Agreement.

NOW, THEREFORE, BE IT RESOLVED in accordance with Code Sections 4.16.100(A) and (B), the City hereby authorizes and approves the terms and conditions of the Agreement attached as Exhibit A with the Consultant for the provision of financial consulting services based upon the Consultant’s competence, skill, and expertise;

BE IT FURTHER RESOLVED that the City Council grants to the Mayor the authorization to execute the Agreement as attached as Exhibit A on behalf of the City, and further authorizes the Mayor to take any action, including any negotiated modifications necessary for the execution of the Agreement along with any other documents necessary or desirable to effectuate the intent of this Resolution and of the Agreement; and

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon adoption and shall have retroactive effect back to the first date that the Mayor began to negotiate the terms and conditions of the Agreement.



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

RESOLVED THIS 27TH DAY OF APRIL 2023, by a vote of ___ in favor and ___ opposed.

Elizabeth Asisaun Toovak, Mayor

ATTEST:

Mary Patkotak, City Clerk

Exhibit A

Financial Consultant Services Agreement between City and TRIBN, LLC

[ATTACHED]

CONSULTING SERVICES AGREEMENT

This Consulting Services Agreement (“**Agreement**”) is entered into and made effective as of _____, 2023 (the “**Effective Date**”), by and between the **City of Utqiagvik (“COU”)**, an Alaska municipal organization, and **TRIBN LLC**, an Alaska Native owned limited liability company (“**Consultant**”), each of which is a “Party” or, collectively, the “Parties” to this Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Engagement of Consultant.** COU hereby engages Consultant, and Consultant hereby agrees, that during the Term (as defined in Section 2), Consultant shall provide and perform for the benefit of COU the consulting services (“**Services**”) described in the attached Scope of Services (Exhibit A). Subject to the terms of this Agreement, Consultant will, to the best of its ability, render the Services set forth in the Scope of Services, including by any completion dates set forth therein. The manner and means by which Consultant chooses to complete the Services are in Consultant’s sole discretion and control. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents in completing such Services. In completing the Services, Consultant agrees to provide its own equipment, tools and other materials at its own expense unless otherwise set forth in Exhibit A. COU will make its facilities and equipment available to Consultant when necessary. Consultant shall perform the Services in a timely and professional manner consistent with COU deadlines and industry standards, and at a location, place and time which Consultant deems appropriate. Consultant may not subcontract or otherwise delegate its obligations under this Agreement without COU’s prior written consent.

2. **Term.** The term of this Agreement shall begin on the Effective Date, and shall be considered in effect for 1 year (“**Term**”), unless earlier terminated. The Term may be extended by notice in writing by an authorized representative of COU.

3. **Termination.**

(a) **Termination by COU.** COU may terminate this Agreement at its convenience, with or without cause, and without any breach by Consultant upon 30 days’ prior written notice to Consultant. COU may also terminate this Agreement immediately in its sole discretion upon Consultant’s breach of this Agreement, including, without limitation, Section 3(c) hereof.

(b) **Termination by Consultant.** Consultant may terminate this Agreement at any time that upon 30 days’ prior written notice to COU.

(c) **Noninterference with Business.** During the Term and for a period of 1 year immediately following the expiration or termination of this Agreement by either Party,

Consultant agrees not to solicit or induce any employee or independent contractor to terminate, change, or breach an employment, contractual or other relationship with COU.

(d) **Return of COU Property.** Upon termination of the Agreement or earlier as requested by COU, Consultant will deliver to COU any and all drawings, notes, memoranda, specifications, devices, formulas, and documents, together with all copies, compilations and summaries thereof, and any other material containing or disclosing any COU Work Product, Third Party Information (as defined in Exhibit B) or Proprietary Information (as defined in Exhibit B) of COU. Consultant further agrees that any property situated on COU's premises and owned by COU, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by COU personnel at any time with or without notice.

4. **Compensation.** As compensation for Consultant's Services during the Term, COU hereby agrees to pay Consultant the approved Services rendered as approved in Exhibit A and its amendments. Monthly invoicing will be based on detailed invoicing submitted by Consultant, itemizing time in 1/10th hour increments by day and timekeeper, and including a description of the work performed, up to a not to exceed monthly cap as set forth on Exhibit A for such professional services. Any "not to exceed" cost referenced in this Agreement shall be defined as the maximum expenditure authorized by COU for the Services specified in Exhibit A and shall not constitute a commitment by COU to purchase any specific volume of Services thereof. A "not to exceed" cost is used when the exact cost of the Services cannot be determined beforehand. Consultant will render the Services in the most cost effective manner to minimize Services' cost to and reimbursable expenses for COU, as further described in Section 5.

5. **Reimbursement of Expenses.** In addition to compensation to Consultant set forth in Section 4 hereof, the COU shall reimburse Consultant for reasonable and necessary expenses ("**Expenses**") incurred in connection with the performance of the Services. All Expenses incurred by Consultant in connection with the performance of the Services, including, but not limited to, economy/coach class air, non-luxury, mid-sized or smaller rental cars, GSA rates for lodging, meals and other incidentals, including per diem, supplies, postage, and overnight mailing charges, will be billed to COU at cost and without any markup, provided Consultant submits verification of such expenses as the COU may require. Further provided, however, Consultant must obtain prior written approval from COU's Mayor for any travel (including the scheduled time and duration thereof) and travel-related expenses. Consultant agrees to submit original receipts and requests for reimbursement of Expenses. COU agrees to make payment to Consultant for reimbursement of the Expenses no more than 30 working days following COU's receipt of Consultant's request for payment.

6. **Independent Contractor Status; Authority.** The relationship of Consultant to COU is that of an independent contractor and not an agent, servant, partner, or employee of COU. Consultant is not the agent of COU and is not authorized to make any representation, contract, or commitment on behalf of COU. Consultant will not be entitled to any of the benefits which COU may make available to its employees, such as group insurance, or retirement benefits. Consultant will be solely responsible for all tax returns and payments required to be filed with or

made to any federal, state, or local tax authority with respect to Consultant's performance of services and receipt of fees under this Agreement. COU will regularly report amounts paid to Consultant by filing Form 1099-MISC and/or other appropriate form with the Internal Revenue Service as required by law. Because Consultant is an independent contractor, COU will not withhold or make payments for social security; make unemployment insurance or disability insurance contributions; or obtain worker's compensation insurance on Consultant's behalf. Consultant agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals, including obligations such as payment of taxes, social security, workers' compensation unemployment insurance, disability and other contributions based on fees paid to Consultant, its agents or employees under this Agreement. Consultant hereby agrees to indemnify and defend COU against any and all such taxes or contributions, including penalties and interest.

7. Consultant Representations and Warranties. Consultant hereby represents and warrants that:

(a) the COU Work Product (as defined in Exhibit B) will be an original work of Consultant and any third parties will have executed assignment of rights reasonably acceptable to COU;

(b) neither the COU Work Product nor any element thereof will infringe the Proprietary Rights of any third party;

(c) neither the COU Work Product nor any element thereof will be subject to any restrictions or to any mortgages, liens, pledges, security interests, encumbrances or encroachments;

(d) Consultant will not grant, directly or indirectly, any rights or interest whatsoever in the COU Work Product to third parties;

(e) Consultant has full right and power to enter into and perform this Agreement without the consent of any third party;

(f) Consultant will take all necessary precautions to prevent injury to any persons (including employees of COU) or damage to property (including COU's property) during the Term;

(g) should COU permit Consultant to use any of COU's equipment, tools, or facilities during the Term, such permission shall be gratuitous and Consultant shall be responsible for any injury to any person (including death) or damage to property (including COU's property) arising out of use of such equipment, tools or facilities, whether or not such claim is based upon its condition or on the alleged negligence of COU in permitting its use;

(h) Consultant is familiar with and will comply (and ensure compliance) with all applicable laws, including, without limitation, employment discrimination and harassment, and federal and state laws governing payment of wages; and

(i) Consultant warrants that if any governmental agency determines Consultant to be a common law employee, Consultant will make no private claim for any benefits or compensation provided to employees of COU.

8. Notices. All notices, requests, or other communications under this Agreement shall be in writing, and shall be deemed properly given immediately upon hand delivery or electronic email submission (with non-automated acknowledgment of receipt by the recipient) to the e-mail address below or, if mailed, 5 business days after depositing in the U.S. Mail. If delivered by hand, any such notice will be considered to have been given when received by the Party to whom notice is given, as evidenced by written and dated receipt of the receiving Party. The mailing address for notice to either Party will be the address shown below. Either Party may change its mailing address by notice as provided by this section.

If to COU:

Mayor Elizabeth Asisaun Toovak
City of Utqiagvik
P.O. Box 629
Utqiagvik, AK 99723-0629
Phone: (907) 852-5211
Email: asisaun.toovak@utqiagvik.us

with a copy to:

Dorsey & Whitney LLP
Attn: Bonnie Paskvan
1031 W. 4th Avenue, Suite 600
Anchorage, AK 99501
Email: paskvan.bonnie@dorsey.com

If to Consultant:

Lars Nelson, CEO
TRIBN, LLC
P.O. Box 1782
Utqiagvik, AK 99723
Cell: (907) 242-1612
Email: lars.nelson@TRIBN.pro

9. Complete Agreement. This Agreement is the final, complete and exclusive agreement of the Parties and supersedes and merges any and all discussions, agreements, and understandings, whether oral or in writing, between Consultant and COU with respect to the subject matter contained herein. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either Party and that no oral agreements or understandings between the Parties shall be binding upon them.

10. Consultant Disclosure of other Engagements COU understands that Consultant may consult or work with other municipal organizations or companies. As of the Effective Date, Consultant does not anticipate that such other consulting or work would materially interfere with its performance of Services under this Agreement. Consultant is free to enter any contract to provide services to other business entities, except any contract, which would induce Consultant to violate this Agreement.

11. Indemnity. Consultant shall indemnify and hold harmless COU, its officers, directors, employees, sublicensees, customers and agents from any and all claims, losses, liabilities, damages, expenses and costs (including reasonable actual attorneys' fees and court costs) which result from a breach or alleged breach of any representation or warranty of Consultant (a "**Claim**") set forth in Section 7 of this Agreement, provided that COU gives Consultant written notice of any such Claim and Consultant has the right to participate in the defense of any such Claim at its expense. From the date of written notice from COU to Consultant of any such Claim, COU shall have the right to withhold from any payments due Consultant under this Agreement the amount of any defense costs (including reasonable actual attorneys' fees), plus additional reasonable amounts as security for Consultant's obligations under this Section.

12. Insurance.

(a) During the Term, Consultant, at its sole cost and expense, shall maintain in good standing the following insurance policies:

(1) General liability insurance providing coverage for bodily injury, including death, no less than \$1,000,000 for any one accident or occurrence.

(2) Workers' compensation as required by state or federal law, and employer's liability insurance.

(3) Property damage liability, which shall include any and all property whether or not in the care, custody, or control of Consultant, no less than \$1,000,000 on account of any one accident.

(b) A Certificate of Insurance indicating such coverage required above shall be delivered to COU on the Effective Date and each following anniversary of the Effective Date. The Certificate shall indicate that the policy will not be changed or terminated without at least 10 days' prior notice to COU, shall name COU as an additional named

insured and shall also indicate that the insurer has waived its subrogation rights against COU.

13. Risk of Loss. Consultant agrees that any personal property, equipment, cargo, vehicle, or other material of any kind which is stored or placed on COU property is so stored and placed at the sole risk of Consultant. In the event that any personal property, equipment, cargo, vehicle or other materials is damaged or destroyed by any cause other than COU's own negligence, Consultant shall not seek compensation or restitution of any kind from COU.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which may be deemed an original, and all of which together shall constitute one and the same instrument. A scanned or electronic copy shall be enforceable as an original.

15. No Subcontracting or Assignment. This Agreement may not be assigned or subcontracted by Consultant without COU's consent, and any such attempted assignment or subcontracting shall be void and of no effect. This Agreement may be assigned by COU in its sole discretion.

16. Waiver. No waiver by either Party of any breach by the other Party of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provision of this Agreement. Any waiver shall be effective only if set forth in writing and executed by authorized representative of both Parties.

17. Modifications. No modifications of this Agreement shall be effective unless in writing and signed by authorized representatives of both Parties.

18. Severability. If any one or more provisions contained in this Agreement is deemed invalid or unenforceable under any applicable statute or rule of law, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. If moreover, any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

19. Interpretation. The Parties hereto acknowledge and agree that: (a) the rule of construction to the effect that ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (b) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favor or against any Party, regardless of which Party was responsible for the preparation of this Agreement.

20. Governing Law; Exclusive Jurisdiction. This Agreement will be governed and construed in accordance with the laws of the State of Alaska. In the event that a question, dispute, or requirement for interpretation or construction should arise with respect to this Agreement, the jurisdiction and venue therefore shall be exclusively with the state or federal

courts of the State of Alaska situated in Utqiagvik, Alaska. The substantially prevailing Party to any dispute under this Agreement shall be entitled to reasonable actual attorneys' fees and costs.

21. Injunctive Relief. A breach of any of the promises or agreements contained in this Agreement may result in irreparable and continuing damage to COU for which there may be no adequate remedy at law, and COU is therefore entitled to seek injunctive relief as well as such other and further relief as may be appropriate, without the necessity of posting a bond or other performance instrument therefor.

22. No Third Party Beneficiary. No person or entity is intended or shall be deemed or determined to be a third party beneficiary of this Agreement.

23. Publicity. Except for materials already made public and as required by law (including, without limitation, the Open Meeting Act and public records law), neither Party shall distribute any news releases, articles, brochures, speeches, or advertisements regarding this Agreement, nor use the other Party's name, logo or trademarks (or any variation thereof), without the other Party's authorized representative's prior, specific written consent.

24. Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

25. Survival of Obligations. Any liabilities or obligations of a Party for acts or omissions prior to the expiration or termination of this Agreement, any obligation of a Party under the provisions regarding Section 7 (Consultant Representations and Warranties), Section 8 (Notices), Section 11 (Indemnity), Section 19 (Governing Law; Exclusive Jurisdiction), Section 22 (Publicity), Exhibit B (Proprietary Information), and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) expiration or termination of this Agreement, shall survive expiration or termination thereof.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

City of Utqiagvik

By: Elizabeth Asisaun Toovak, Mayor

Date

TRIBN LLC

By: Lars Nelson, Founder/President/CEO

Date

**EXHIBIT A
SCOPE OF SERVICES**

Additional services may be added to this Exhibit A - Scope of Services as amendments at the discretion of the Mayor, for other tasks as assigned.

Task 1: Executive Administration and Program Support

Services Description: Provide Executive Management and support and assistance where required, including special focus on revenue vs. expenditures per department, grants accounting, enterprise assistance for COU programs, assisting departments, staff and directors with current tasks as well as for the development of new programs. TRIBN staff will be assigned to this task and will act in the general roles as described below, in addition to duties as assigned.

| Professional Placement | Description | Rate | FTE% | Total |
|------------------------|--------------------------|--------|----------------|------------|
| Program Manager | Program Manager | \$ 185 | 50% | \$ 192,400 |
| Project Manager | Accounts Manager | \$ 165 | 50% | \$ 171,600 |
| | Total Contractual | | Annual | \$ 364,000 |
| | | | Monthly | \$ 30,333 |

This work requires two (2) 50% FTE (full time equivalent) of TRIBN Program Management time and effort. This is based on an annual calculation of 100% FTE or 2080 hours x Project Management rate:

- \$185 Program Manager / hour x 1,040 hrs/yr = \$192,400 per year
- \$165 Project Manager / hour x 1,040 hrs/yr = \$171,600 per year

The Program Manager is based out of TRIBN’s Anchorage office and will make routine trips to the COU at the Mayor’s discretion, and with the Mayor’s prior written approval as to schedule and duration of trip in each instance, in her sole discretion, which approval may be by email.

The Project Manager is based out of TRIBN’s Utqiagvik office and will be available to work at the COU offices as needed.

Authorized Signature in Acceptance of Terms in Exhibit A:

City of Utqiagvik

By: Elizabeth Asisaun Toovak, Mayor
TRIBN, LLC

Date

By: Lars Nelson, Founder/President/CEO

Date

Exhibit B
INDEPENDENT CONTRACTOR
CONFIDENTIALITY, TRADE SECRET AND
ASSIGNMENT OF INTELLECTUAL PROPERTY AGREEMENT

1. **PROPRIETARY INFORMATION.** Consultant agrees during the term of this Agreement and thereafter that it will take all steps reasonably necessary to hold City of Utqiagvik's ("**COU**") Proprietary Information in trust and confidence, will not use Proprietary Information in any manner or for any purpose not expressly set forth in this Agreement, and will not use or disclose any such Proprietary Information to any third party without first obtaining COU's express written consent on a case-by-case basis. For purposes of this Agreement, "**Proprietary Information**" includes, but is not limited to, (a) trade secrets, intellectual property, mask works, ideas, processes, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques (collectively, "**Intellectual Property**"); and (b) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers. Notwithstanding the other provisions of this Agreement, nothing received by Consultant will be considered to be COU Proprietary Information if (1) it has been published or is otherwise readily available to the public other than by a breach of this Agreement; (2) it has been rightfully received by Consultant from a third party without confidential limitations; (3) it has been independently developed for Consultant by personnel or agents having no access to the COU Proprietary Information; or (4) it was known to Consultant prior to its first receipt from COU.

Consultant acknowledges that certain whistleblower laws permit Consultant to communicate directly with governmental or regulatory authorities, including communications with the U.S. Securities and Exchange Commission about possible securities law violations, without COU's permission or notification, and that COU will not consider such communications to violate this or any other agreement between Consultant and COU or any COU policy.

Consultant acknowledges that under U.S. Defend Trade Secrets Act of 2016, Consultant will not be held criminally or civilly liable under any U.S. federal or state trade secret law for the disclosure of a trade secret that is made in confidence to government officials, either directly or indirectly, or to an attorney, in each case solely for the purpose of reporting or investigating a suspected violation of law, or in a complaint or other document filed in a lawsuit or other proceeding, provided such filing is made under seal. If Consultant has any questions as to what comprises such confidential or proprietary information or trade secrets, or to whom if anyone it may be disclosed, Consultant will consult with COU. Consultant understands that in the event it is determined that the disclosure of COU trade secrets was not done in good faith, Consultant will be subject to substantial damages, including punitive damages and reasonable actual attorneys' fees.

2. **THIRD PARTY INFORMATION.** Consultant understands that COU has received and will in the future receive from third parties confidential or proprietary information ("**Third Party**

Information”) subject to a duty on COU’s part to maintain the confidentiality of such information and use it only for certain limited purposes. Consultant agrees to hold Third Party Information in confidence and not to disclose to anyone (other than COU personnel who need to know such information in connection with their work for COU) or to use, except in connection with Consultant’s work for COU, Third Party Information unless expressly authorized in writing by an officer of COU.

3. **NO CONFLICT OF INTEREST.** Consultant agrees during the term of this Agreement not to accept work or enter into a contract or accept an obligation, inconsistent or incompatible with Consultant’s obligations under this Agreement or the scope of services rendered for COU. Consultant warrants that to the best of its knowledge, there is no other existing contract or duty on Consultant’s part inconsistent with this Agreement, unless a copy of such contract or a description of such duty is attached to this Agreement as Attachment 1. Consultant further agrees not to disclose to COU, or bring onto COU’s premises, or induce COU to use any confidential information that belongs to anyone other than COU or Consultant.

4. **DISCLOSURE OF WORK PRODUCT.** As used in this Agreement, the term “**Work Product**” means any Intellectual Property, whether or not patentable, and all related know-how, designs, mask works, trademarks, formulae, processes, manufacturing techniques, trade secrets, ideas, artwork, software or other protectable works. Consultant agrees to disclose promptly in writing to COU, or any person designated by COU, all Work Product which is conceived, made, reduced to practice, or learned by Consultant in the course of any work performed for COU (“**COU Work Product**”). Consultant represents that any Work Product relating to COU’s business or any Project, which Consultant has made, conceived, or reduced to practice at the time of signing this Agreement (“**Prior Work Product**”) has been disclosed in writing to COU and attached to this Agreement as Attachment 2. If disclosure of any such Prior Work Product would cause Consultant to violate any prior confidentiality agreement, Consultant understands that it is not to list such Prior Work Product in Attachment 2 but it will disclose a cursory name for each such Intellectual Property, a listing of the party(ies) to whom it belongs, and the fact that full disclosure as to such Prior Work Product has not been made for that reason. A space is provided in Attachment 2 for such purpose.

5. **OWNERSHIP OF WORK PRODUCT.** Consultant shall specifically describe and identify in Attachment 2 all technology which (a) Consultant intends to use in performing under this Agreement; (b) is either owned solely by Consultant or licensed to Consultant with a right to sublicense; and (c) is in existence in the form of a writing or working prototype prior to the Effective Date (“**Background Technology**”). Consultant agrees that any and all Intellectual Property conceived, written, created or reduced to practice in the performance of work under this Agreement or with COU resources shall be the sole and exclusive property of COU.

6. **ASSIGNMENT OF COU WORK PRODUCT.** Except for Consultant’s rights in the Background Technology, Consultant irrevocably hereby assigns to COU all right, title and interest worldwide in and to the COU Work Product and all applicable intellectual property rights related to the COU Work Product, including without limitation, copyrights, trademarks, trade secrets,

patents, moral rights, contract and licensing rights (the “**Proprietary Rights**”). Except as set forth below, Consultant retains no rights to use the COU Work Product and agrees not to challenge the validity of COU’s ownership in the COU Work Product. Consultant hereby grants to COU a non-exclusive, royalty-free, irrevocable and world-wide right, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, publicly perform, and publicly display in any form or medium, whether now known or later developed, distribute, make, use, sell and offer to sell Background Technology and any Prior Work Product incorporated or used in the COU Work Product for the purpose of developing and marketing COU products.

7. **NOTICE OF LIMITED EXCLUSION.** Consultant understands that this Agreement does not apply to Intellectual Property for which no equipment, supplies, facility or trade secret information of COU were used and that were developed entirely on its own time, unless (a) the Intellectual Property relate (i) directly to the business of COU, or (ii) to COU’s actual or demonstrably anticipated research or development, or (b) the Intellectual Property result from any work performed by Consultant for COU.

8. **WAIVER OR ASSIGNMENT OF OTHER RIGHTS.** If Consultant has any rights to the COU Work Product that cannot be assigned to COU, Consultant unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of action of any kind against COU with respect to such rights, and agrees, at COU’s request and expense, to consent to and join in any action to enforce such rights. If Consultant has any right to the COU Work Product that cannot be assigned to COU or waived by Consultant, Consultant unconditionally and irrevocably grants to COU during the term of such rights, an exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to make, use, sell, offer to sell, reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such rights.

9. **ASSISTANCE.** Consultant agrees to cooperate with COU or its designee(s), both during and after the term of this Agreement, in the procurement and maintenance of COU’s rights in COU Work Product and to execute, when requested, any other documents deemed necessary by COU to carry out the purpose of this Agreement. Consultant agrees to execute upon COU’s request a signed transfer of copyright to COU in the form attached to this Agreement as Attachment 3 for all COU Work Product subject to copyright protection, including, without limitation, computer programs, notes, sketches, drawings and reports.

10. **ENFORCEMENT OF PROPRIETARY RIGHTS.** Consultant will assist COU in every proper way to obtain, and from time to time enforce, United States and foreign Proprietary Rights relating to COU Work Product in any and all countries. To that end, Consultant will execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as COU may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Proprietary Rights and the assignment thereof. In addition, Consultant will execute, verify and deliver assignments of such Proprietary Rights to COU or its designee. Consultant’s obligation to assist COU with respect to Proprietary Rights relating to such COU Work Product in any and all countries shall continue beyond the termination of this Agreement,

but COU shall compensate Consultant at a reasonable rate after such termination for the time actually spent by Consultant at COU's request on such assistance.

11. **EXECUTION OF DOCUMENTS.** In the event COU is unable for any reason, after reasonable effort, to secure Consultant's signature on any document needed in connection with the actions specified in the preceding Sections 8, 9 and 10, Consultant hereby irrevocably designates and appoints COU and its duly authorized officers and agents as its agent and attorney in fact, which appointment is coupled with an interest, to act for and in its behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by Consultant. Consultant hereby waives and quitclaims to COU any and all claims, of any nature whatsoever, which Consultant now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to COU.

12. **ENTIRE AGREEMENT.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between COU and Consultant. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the Party to be charged. The terms of this Agreement will govern all Services undertaken by Consultant for COU. In the event of any conflict between this Agreement and a Scope of Services, the Scope of Services shall control, but only with respect to the Services set forth therein.

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

COU

City of Utqiagvik

By: Elizabeth Asisaun Toovak, Mayor

Date

CONSULTANT

**TRIBN, LLC
P.O. Box 1782
Utqiagvik, AK 99723**

By: Lars Nelson, Founder/President/CEO

Date

For copyright registration purposes only, Consultant must provide the following information:

Date of Birth: _____

Nationality or Domicile: _____

ATTACHMENT 1

CONFLICT OF INTEREST DISCLOSURE

ATTACHMENT 2

PRIOR WORK PRODUCT DISCLOSURE

1. Except as listed in Section 2 below, the following is a complete list of all Prior Work Product that has been made or conceived or reduced to practice by Consultant alone or jointly with others prior to my engagement by COU:

No Intellectual Property or improvements.

See below:

Additional sheets attached.

2. Due to a prior confidentiality agreement, Consultant cannot complete the disclosure under Section 1 above with respect to Intellectual Property or improvements generally listed below, the proprietary rights and duty of confidentiality with respect to which Consultant owes to the following party(ies):

| Intellectual Property or Improvement | Party(ies) | Relationship |
|---|-------------------|---------------------|
| 1. _____ | _____ | _____ |
| 2. _____ | _____ | _____ |
| 3. _____ | _____ | _____ |

Additional sheets attached.

BACKGROUND TECHNOLOGY DISCLOSURE

The following is a list of all Background Technology that Consultant intends to use in performing under this Agreement:

ATTACHMENT 3

ASSIGNMENT OF COPYRIGHT

For good and valuable consideration, which has been received, the undersigned sells, assigns and transfers to City of Utqiagvik, and its successors and assigns, the copyright in and to the following work, which was created by the following indicated author(s):

Title:

Author(s):

Copyright Office Identification No. (if any): _

and all of the right, title and interest of the undersigned, vested and contingent, therein and thereto.

Executed this ____ day of _____, 2023.

Signature: _____

Printed Name: _____