



AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("*Agreement*") is entered into on _____, 2____ (the "*Effective Date*") by and between (Enter Organization Name:) _____ the ("*Client*"), and Alan Michael LLC, an Alaska limited liability company ("*Consultant*").

RECITALS

WHEREAS, from time to time Client needs technical assistance to complete narratives, financial projections, budget formulations and other criteria related to successfully compiling and submitting Proposals to private and government funding agencies.

WHEREAS, Client desires to enter a contract with Consultant, and Consultant desires to contract with Client, under which Consultant would perform certain professional services pursuant to the terms and conditions of this Agreement in support of Client's work specifically of the Client.

WHEREAS, Client is aware the federal or state governments in the United States will not charge a fee for an application to any federal or state agency for the purpose of submitting an application for grant or financing considerations.

WHEREAS, Client has reviewed the terms of this agreement and has the majority approval from their governing body to enter into this agreement or is otherwise authorized to enter into this agreement.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals, and for other consideration, the receipt and sufficiency of which are hereby acknowledged, the Client and Consultant (*the parties*) hereto agree as follows:

1. Performance of the Work. Pursuant to the terms and conditions of this Agreement, the Consultant shall provide all labor, materials, equipment and services necessary to properly perform and complete the work specifically set forth in TO's (defined in Section 1.1 below) issued by Client. Consultant shall perform the work in a diligent and professional manner utilizing duly qualified personnel and good and sufficient materials and equipment.

1.1 Request for Services. Client may, from time to time during the Term of this Agreement, request Services from Consultant by issuing a task order ("*TO*") with an attached Statement of Work ("*SOW*") requesting the professional services to be performed by Consultant, along with expected completion dates, deliverables, reports, data and results from such Services ("*Services*"). The TO will state whether the Services are to be performed on a firm fixed price ("*FFP*"), fixed labor rates ("*FFL*"), time and materials basis ("*T&M*"), cost plus a fixed fee ("*CPFF*") basis, or on some other pricing method. Within five business days of receipt of the TO, Consultant will either accept or reject the TO. The Consultant may accept the TO only by countersigning the TO and returning an executed copy of the TO to Client. Consultant shall not perform any Service not included in the SOW unless such Service is agreed to in writing by the parties in accordance with an accepted TO or authorized amendment thereto signed by both parties. There will be no changes to any TO, including without limitation the SOW, unless agreed to in writing by the parties.

1.2 Incorporated Terms and Conditions of Prime Contract. Notwithstanding anything in this Agreement to the contrary, the parties acknowledge and agree that the terms and conditions imposed on Client in the Prime Contract are applicable and binding upon Consultant, including but not limited to the work force and affirmative action reporting requirements. Consultant hereby acknowledges that a copy of the terms and conditions contained in the Prime Contract has been provided to Consultant. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Prime Contract relating to the performance of Consultant's services under this Agreement, the terms and conditions of the Prime Contract shall control.

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1.3 Method of Performing Services. Consultant will determine the method and means of performing Services. Services shall be performed in a workmanlike manner. No overtime hours are authorized or anticipated to perform Services and Client will not be charged any additional hourly rate for time worked in excess of those charged for the standard workday and workweek. Services will be provided by Consultant pursuant to the terms and conditions and within the time frames agreed to in any TO issued by Client and accepted by Consultant.

1.4 Use of Employees, Consultants or Consultants. All work performed by Consultant shall be performed by the following employees: Harold Borbridge, Diana Charles, Valda Borbridge or approved designated employees agreed to by the Client and the Consultant. Consultant may not subcontract, assign or delegate the performance of any Services without the prior written approval of Client, which approval shall not be unreasonably withheld. Consultant will notify Client when Consultant intends to use expert consultants, or affiliates to perform any Services. Consultant shall be solely responsible for services performed, and equipment provided, by any of its employees, expert consultants, or affiliates.

1.5 Insurance. During the term of this Agreement, Consultant shall secure and maintain, and shall cause its consultants and Consultants to secure or maintain, professional liability insurance in amounts sufficient to cover the risks associated with Consultant's work. Client shall be named as an additional insured on all such required policies. Upon reasonable request, Consultant will provide Client with evidence of such insurance. Consultant and its consultants and Consultants shall not perform services pursuant to this Agreement without the required insurance.

1.6 Relationship of the Parties. Consultant enters into this Agreement as an independent Client, and will remain an independent Client throughout the term of this Agreement. Consultant may consult for, contract with and/or provide goods and services to as many additional clients, persons, or companies as Consultant in its sole discretion, sees fit. Both parties acknowledge and agree that neither Consultant nor its personnel is a joint venturer, partner, employee, agent or principal of, and has no authority to bind or obligate, Client by contract or otherwise. Consultant shall not make any representation or warranty, enter into any agreement or arrangement, or assume or create any obligation, express or implied, on behalf of Client. Consultant will provide, at its own expense, disability, unemployment and other insurance, workers' compensation, training, permits and licenses for itself and for its employees.

1.7 Client Communications. Consultant acknowledges and agrees that unless authorized by Client in writing, Consultant shall not (a) contact, or (b) discuss or negotiate any proposals, proposed or issued task orders and statements of work, or any other aspect of the Prime Contract and this Agreement with the Client and its representatives and agencies.

1.8 Performance. Consultant shall perform Services efficiently and diligently, in strict conformity with this Agreement, the Client's safety and environmental standards, and in accordance with federal, state and local regulatory requirements, and good industry, safety and environmental practices. Consultant shall provide professional, skilled and competent personnel to perform the Services to the satisfaction of Client and Client. Consultant shall not, without prior written consent of Client, remove specified key personnel from the Services or interfere with their availability to perform the Services on a first priority basis.

2. Payment for Services.

2.1 Payments; Advance and Regular. For Grant writing Services *only*: Client will pay Consultant a minimum 25% of agreement fee to initiate work on any T.O. related to grant writing. The remaining percentage of the agreed fee, Client shall pay invoices for work performed by Consultant within thirty (30) days after Client's receipt of the invoice, provided the Client has received Consultant's properly completed invoices with sufficient backup documentation in accordance with Section 2.2 below. If applicable, the amount of each payment will be made in accordance with the payment schedule and/or milestones set forth in each Task Assignment.

2.2 Invoices. To the degree possible, All invoicing will be completed by electronic transmission of completed invoice in a .pdf format. Consultant shall submit to Client monthly invoices for Services rendered and reimbursable expenses incurred during the previous month in a format acceptable to Client. All monthly invoices shall contain complete and accurate information as needed for prompt payment by the Client to Consultant. If Client requires

Consultant to provide additional backup information to support the expenses set forth in any Consultant invoice, or if the Client refuses to pay Consultant for any amount due under any Consultant invoice based on missing or incomplete information in the possession or control of Consultant, Consultant shall promptly provide Client with such information. Upon reasonable request, Consultant shall provide Client with time cards to support the charges for Services and receipts to support the purchase of any materials or for the reimbursement of expenses. All invoices must clearly indicate the name and address of the Consultant, the invoice date, the Task Assignment number, name and address of Consultant official to whom payment is to be sent, period of performance covered by invoice, breakdown of costs, including labor rate and hours worked, and description of services performed and costs related thereto completed under this Agreement. Each copy of the invoice shall contain the following certification signed by an appropriate person of Consultant's organization: "I certify all expenditures reported (or payments requested) are for appropriate purposes; are correct and just in accordance with the terms of the Agreement and that payment has not been received." Final invoices shall be submitted within 90 days of the completion of the last tasks or within 90 days of specified end of the period of performance, whichever is sooner.

2.3 Travel and Per Diem. Travel and per diem required by Consultant in the performance of Services under a TO shall be invoiced on an actual cost basis. Subject to the provisions set forth in this Agreement, Client shall reimburse Consultant for its reimbursable travel and per diem expenses on a straight cost reimbursement basis, i.e., no administrative costs or fees applied.

2.4 Disputed Amounts. Client may refuse to pay any charge included on any invoice or other request for payment from Consultant that is inconsistent or in conflict with Services described on the T.O. or the SOW agreed upon by the parties upon which such invoice or request for payment is based. Client shall pay all undisputed portions of the invoice pursuant to this Agreement, and provide Consultant with a written explanation of the basis for its dispute of the remaining charge. Consultant and Client shall negotiate in good faith to resolve any such disputed amounts.

2.5 NTE Amounts. Consultant will not perform Services or incur expenses that generate fees or reimbursements that would exceed any total not-to-exceed ("*NTE*") amount set forth in a TO issued by Client and accepted by Consultant. Consultant shall bear the full risk of loss in performing any work that exceeds the NTE amount.

2.6 Compensation of Employees and Consultants. Consultant shall be solely responsible for compensation and payment of its employees, consultants, Consultants and affiliates that Consultant retains, contracts or assigns to perform Services under any TO.

2.7 Right to Audit. Upon request of the Client, the accounting records, as well as other records maintained by the Consultant in the performance of the work specified herein, shall be subject, at all reasonable times, to audit by Client. In addition, Client may have such an audit performed at any time within one year following the completion or termination of work specified herein. Consultant shall keep full and accurate records including, without limitation, reasonable substantiation of all expenses incurred and all property acquired hereunder. Consultant shall keep supporting documentation for invoices, including original time sheets and receipts for expenses, for a minimum of five (5) years after the date the Services is performed or the expense is incurred. Consultant shall make its records available for review and copying by Client upon ten (10) business day's advance notice.

2.8 Completion of work. Completion of a task order as it relates to grant writing services will include the following: Successful submission to a granting agency with a confirmation of arrival to the granting agency with a tracking number, or email confirmation from any program official managing the grant opportunity state in the T.O.

3. Confidentiality.

3.1 Information. Each party may from time to time communicate to the other, or may otherwise gain access to, confidential business and/or technical information with respect to operations, business plans and strategies, products, services, methods, designs, processes, patents, copyrights, trade secrets, Work Product (as defined below), Project Technology (as defined below) and/or other legally or otherwise protected proprietary rights, whether filed or

not and whether previously developed or developed concurrently using separate or other funding (the “**Information**”). Each Party shall use Confidential Information received from the other Party solely for the purposes of the Services under this Agreement, and shall not disclose any Confidential Information of the other Party to any third party without the express written permission of the disclosing Party.

3.2 Disclosure and Use of Information. Each party shall not disclose, or permit the disclosure of, or use, or permit the use of, any Information without the prior written consent of the disclosing party, except as required for the performance of this Agreement. Each party shall limit the use and disclosure of the Information within its organization to the extent necessary to perform Services. By instruction or otherwise, each party shall ensure that any of its employees, consultants, Consultants and affiliates that have access to Information of the other party shall comply with the obligations of confidentiality and non-disclosure/use set forth in this Agreement and the NDA. Upon termination or expiration of this Agreement, Client shall abide by all Consultant instructions relating to disposition of the Consultant Information used or obtained during the course of performance of the work described herein. Upon termination or expiration of this Agreement, Consultant shall comply with all Client instructions relating to disposition of the Client Information.

3.3 Confidentiality of Work Product. For Work Product not supported by public funds. Each party shall not disclose to any third party, including but not limited to any Client or Consultant, without the prior written consent of the other party (the “**Originating Party**”), any of (a) the Originating Party’s works of authorship, discoveries, inventions and innovations independently created or developed by the Originating Party in connection with Services performed under this Agreement or (b) any proposals, research, records, reports, recommendations, manuals, findings, evaluations, forms, reviews, information, data, computer programs and software independently created or developed by the Originating Party for or in performance under this Agreement (the items listed in clauses (a) and (b) being hereinafter referred to collectively and severally as “**Work Product**”). Notwithstanding the foregoing, with respect to the Information, Work Product and/or products that are required under the SOW to be provided to the Client, Client shall have the paid-up, royalty-free, limited, non-exclusive and non-transferable right to disclose such Consultant Information, Work Product and/or products solely to the Client and Consultant, and solely for use of Consultant Information, Work Product and/or products to evaluate, and as reasonably necessary to perform the work, and to provide the deliverables, under the Prime Contract.

4. Term. This Agreement shall become effective on the Effective Date and shall remain in full force and effect for one year and one day from the effective date or until terminated earlier by either Client or Consultant in accordance with Section 5. This Agreement may be renewed by mutual written agreement signed by both parties. Upon the termination or expiration of this Agreement, Articles 2, 3, 4, 5, 7 and 8 of this Agreement shall survive expiration or termination.

5. Termination and Suspension.

5.1 Termination for Convenience. Client may at any time and for any reason terminate this Agreement and performance hereunder, in whole or in part, by written notice of termination issued by Client, which notice shall state the extent to which such performance shall be terminated and the date upon which such termination shall become effective.

5.2 Termination for Cause. The occurrence of any breach of this Agreement by either party which in the event such breach can be cured in a commercially reasonable manner, is not cured within 30 calendar days after the breaching party receives written notice of such breach shall allow the non-breaching party, in addition to any other rights or remedies that the non-breaching party might pursue, to terminate this Agreement for cause after the expiration of the applicable period of cure.

5.3 Suspension by Client.

5.3.1 If the Client orders Consultant to suspend or delay the performance of Services under the Prime Contract or any TO issued under this Agreement for any reason whatsoever, upon receiving written notice of such suspension or delay, Consultant shall immediately suspend or delay its Services for the period of time determined by the Client. If a TO was issued by Client for the purchase of Services and that TO was accepted by Consultant prior to the date of any such suspension or delay, then Client may terminate such TO on 30 days notice,

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but only for those Services, as applicable, that have not yet been delivered by Consultant and are not scheduled to be delivered within that 30 day period and Client shall incur no charge for such Services; provided, however, that upon receipt of the TO termination notice, Consultant shall exercise commercially reasonable efforts to terminate any Services deliveries under such TO so as to mitigate its damages and to minimize the liability of Client to Consultant under such TO.

5.3.2 If the performance of all or any part of any Service is suspended or delayed by an act of the Client in the administration of the Prime Contract, or by the Client's failure to act within the time specified in the Prime Contract (or within a reasonable time if not specified), no adjustment shall be made for any increase in the cost of performance of this Agreement caused by such suspension or delay, and this Agreement shall not be deemed modified in any manner.

5.4 Termination of Prime Contract. Notwithstanding any other provision in this Agreement to the contrary, Client shall have the right, at any time, to terminate this Agreement by providing written notice to Consultant, if the Prime Contract is terminated. In addition, Client shall have the right, at any time, to terminate any TO. In the event the Client terminates any task order or statement of work under which such TO was issued, Client shall terminate by delivering to Consultant a notice (the "*Notice of Termination*") specifying the extent of termination and the effective date.

6. Compliance with Laws. Consultant represents, warrants and covenants to Client that, at all times during the term of this Agreement, Consultant will comply and will not violate any federal, state and local government laws, rules and regulations in connection with Services that it will perform under this Agreement, including but not limited to the procurement of permits, licenses and certificates where required and payment of applicable taxes.

7.

7. Indemnification. Consultant shall indemnify, hold harmless, and defend Client, its affiliates, and their respective directors, officers, employees, agents and representatives (the "*Client Indemnitees*"), from and against any and all claims, suits, actions, proceedings, liabilities, losses, costs, expenses, damages, judgments, penalties, fines, orders and settlements (including reasonable attorneys' fees) whatsoever, asserted by any third party against any Client Indemnitee arising out of or relating to (a) any violation of law, negligent act or omission, or willful misconduct by Consultant or its respective employees, consultants, Consultants, affiliates, agents or representatives in connection with the performance of any Services under this Agreement, and (b) any action by a third party against Client that is based on a claim that any Services, the results of any Services, or Client' use thereof, infringe, misappropriate or violate a third party's intellectual property rights.

8. Miscellaneous

8.1 Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersede all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.

8.2 Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations or liabilities under or by reason of this Agreement, except to the extent such Services will be resold, redelivered or provided to, or on behalf of, the Client and/or its agencies, departments or designees.

8.3 Governing Law. This Agreement is made in accordance with and shall be construed under the laws of the State of Alaska, other than the conflicts of laws principles thereof.

8.4 Amendments and Waivers. Any term of this Agreement may be amended, and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or

prospectively) only with the written consent of Client and Consultant. The failure or delay of either party to enforce at any time any provision of this Agreement shall not constitute a waiver of such party's right thereafter to enforce each and every provision of this Agreement. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties.

8.5 Severability. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable provision had (to the extent not enforceable) never been contained in this Agreement.

8.6 Successors and Assigns. This Agreement, and the rights and obligations of the parties hereunder, will be binding upon and inure to the benefit of their respective successors, assigns, heirs, executors, administrators and legal representatives; provided, however, that Consultant may not subcontract, assign or delegate its rights and obligations under this Agreement except in compliance with this Agreement and only with Client' express written consent.

8.7 Notices. All notices and other communications required or permitted under this Agreement shall be given in writing and shall be mailed by registered or certified mail, postage prepaid, sent by confirmed facsimile, sent by e-mail, or otherwise delivered by hand, overnight courier or by messenger, addressed (a) if to Client, such address as Client shall have furnished to Consultant, or (b) if to Consultant, at Consultant's address as Consultant shall have furnished to Client. Each such notice or other communication shall be treated as effective or having been given when delivered if delivered personally, if sent by e-mail or if sent by mail, at the earlier of its receipt or 96 hours after the same has been deposited in a regularly maintained receptacle for the deposit of mail, addressed and mailed as set forth above.

8.8 Force Majeure. Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party, including, but not limited to, acts of God, strikes, walkouts, riots, acts of war, acts of terrorism, fire, power failures, earthquakes or other disasters or delays caused by third parties. Consultant shall notify Client as soon as possible regarding any such delay or failure to perform. Verbal notification shall be followed by written notification as soon as is practicable, with all available pertinent detail regarding the cause of such delay or failure. Consultant shall also provide its plan for resumption of work, proposed revisions to schedule, etc., as the circumstances warrant, to Client for acceptance.

8.9 Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOST PROFITS ARISING OUT OF THIS AGREEMENT OR ITS SUBJECT MATTER, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT OR ANY OTHER LEGAL THEORY, EVEN IF SUCH PARTY HAS BEEN INFORMED IN ADVANCE OF THE TOSSIBILITY OF SUCH DAMAGES.

8.10 No Publicity. The parties agree not to issue any news release, public announcement, advertisement or any other form of publicity concerning this Agreement without obtaining the prior written approval of the other party.

8.11 Representations and Warranties. Each party represents and warrants that, to the best of its knowledge, it has the legal rights, power and authorization necessary to enter into this Agreement. Consultant represents and warrants that Consultant has no pre-existing obligations or commitments, and agrees not to assume or

otherwise undertake any obligations or commitments, that would be in conflict or inconsistent with, or that would hinder Consultant's performance of its obligations under this Agreement.

8.12 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of counterparts. This Agreement may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

Client Signature:

Fax Signed Document to:907-929-5202

IN WITNESS WHEREOF, the parties hereto have caused their authorized representatives to execute and deliver this Agreement effective as of the Effective Date.

_____ *(Enter Organization Name)*

Signature: _____

Printed Name: _____ Effective Date: _____

Title: _____

Consultant Signatures:

Alan Michael LLC

Signature: Paul of

Printed Name: Harold Borbridge

Title: Project Manager/Owner

Alan Michael LLC

Signature: Diana Charles

Printed Name: Diana Charles

Title: Project Manager/Owner