



CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is dated the _____

BETWEEN:

TLA'AMIN NATION

AND:

WHEREAS:

- A. Tla'amin Nation has issued a Request for Proposal (“RFP”) to seek proposals from vendors (The “Recipient”) for Finance & Accounting Software and Implementation services (the “Project”).
- B. The Recipient has expressed an interest in submitting a proposal in response to the RFP and in order to prepare its proposal, the Recipient requires certain information related to the Project from Tla'amin Nation.
- C. Tla'amin Nation wishes to disclose certain information to the Recipient through the RFP materials and process, demonstration sessions and other discussions, and the Recipient wishes to have access to such information, upon and subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of having access to the Confidential Information and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

1.0 **CONFIDENTIALITY**

- 1.1 In this Agreement, "**Confidential Information**" means any information in a tangible medium disclosed by Tla'amin Nation to the Recipient with respect to the Project, including information and documentation containing details of the Nation's governance and operations, and any oral information with respect to the same, now or hereafter existing during the currency of this Agreement, whether or not such information is stamped or otherwise marked as confidential.
- 1.2 The Recipient hereby covenants with Tla'amin Nation that the Recipient will keep all Confidential Information in strictest confidence and the Recipient will not disclose or permit disclosure of all or any portion of the Confidential Information to any person, firm or corporation, except as otherwise expressly permitted by this Agreement or expressly authorized in writing by Tla'amin Nation. Any Confidential Information provided by Tla'amin Nation to the Recipient is intended solely for the use of the Recipient. Any dissemination, distribution or use without the express written consent of Tla'amin Nation is strictly prohibited.
- 1.3 **Exceptions to Confidential Information.** For purposes hereof, "Confidential Information" does not include information that (i) was or becomes public knowledge through no fault of the Recipient (ii) was rightfully disclosed to the Recipient without restriction by a third-party not bound by a confidentiality restriction, or (iii) was independently developed by the Recipient or its personnel. The restrictions in this Section 1.3 shall not prevent disclosures required by law, court order or other governmental order or demand; provided that, to the extent practicable, the Recipient provides prompt written notice and reasonable assistance to Tla'amin Nation prior to such disclosure, so that Tla'amin Nation may seek a protective order or other appropriate remedy to protect against or limit such disclosure.
- 1.4 Despite the foregoing, the Recipient may disclose all or any part of the Confidential Information to its employees, contractors and consultants who have a need to know (the "Recipient's Representatives") for the purpose of responding to the RFP provided the Recipient advises the Recipient's Representatives of its confidential nature and directs the Recipient's Representatives to treat the Confidential Information as confidential and not to use the Confidential Information other than as permitted by this Agreement. Any disclosure of the Confidential Information by the Recipient's Representatives shall constitute a breach of this Agreement by the Recipient.
- 1.5 The Recipient shall use the Confidential Information only for the purposes of preparing and providing to Tla'amin Nation a response to the RFP, demonstration sessions and related discussions, and for no other use or purpose whatsoever.
- 1.6 The Recipient covenants to promptly return all Confidential Information in its possession or under its control and deliver to Tla'amin Nation or permanently destroy any records created

by or on behalf of the Recipient that incorporate, identify, disclose or contain any part of the Confidential Information upon request by Tla'amin Nation or upon the Recipient no longer requiring the Confidential Information for the purpose of preparing any response to the RFP and in any event upon the Recipient submitting its response to the RFP to Tla'amin Nation.

- 1.7 This Agreement shall be deemed effective as of the date indicated above and shall continue in full force and effect for a period of two years from the effective date unless extended by the parties in writing.
- 1.8 The Recipient acknowledges and agrees that the use or disclosure of any Confidential Information by it in a manner inconsistent with the terms of this Agreement will cause irreparable and continuing damage to Tla'amin Nation which could not adequately be compensated for in damages alone. Therefore, the Recipient agrees Tla'amin Nation will have the right to seek equitable and injunctive relief to prevent any actual or anticipated unauthorized use or disclosure of the Confidential Information by the Recipient or any further use or disclosure of the Confidential Information, as well as all other remedies available at law or in equity, and the Recipient hereby consents to an injunction being issued against it in this regard (if applicable). The Recipient further agrees that no such action by Tla'amin Nation will be construed so as to be in derogation of any other remedy that may be available in the event of such a breach or anticipated breach.

2.0 PROPRIETARY RIGHTS

- 2.1 The Recipient agrees the Recipient will not acquire any right, title or interest in or to the Confidential Information, all of such right, title and interest being owned by Tla'amin Nation.
- 2.2 All Confidential Information copied or reproduced in whole or in part and any further copies, reproductions or facsimiles thereof shall be and remain the property of Tla'amin Nation. Summaries or aggregations of the Confidential Information, in part or whole, shall also be considered Confidential Information as pertaining to this Agreement.

3.0 ADEQUATE CONSIDERATION

- 3.1 The Recipient agrees the Recipient has received good, valuable and sufficient consideration for the covenants and agreements made by the Recipient in this Agreement on the basis it is a condition precedent to Tla'amin Nation giving the Recipient access to the Confidential Information that the Recipient enter into this Agreement.

4.0 GENERAL

- 4.1 The Recipient shall indemnify and hold Tla'amin Nation harmless from all losses, damages, costs and expenses (including, without limitation, actual legal fees and disbursements) suffered by Tla'amin Nation as a result, directly or indirectly, of any breach of the terms and covenants of this Agreement or the use of the Confidential Information by the Recipient and/or the Personnel. It is understood and acknowledged that a breach of any of the covenants or provisions herein or the use of the Confidential Information may cause Tla'amin Nation irreparable harm which could not be adequately compensated for by damages. Accordingly, in the event of any threatened or actual breach of this Agreement, Tla'amin Nation, may in addition to any specific remedy for relief,

seek to enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction. This section survives the expiry or termination of this Agreement.

- 4.2 This Agreement will ensure to the benefit of and be binding upon the parties and their respective personal representatives, heirs, administrators, executors, successors and permitted assigns.

IN WITNESS WHEREOF the Recipient has executed this Agreement as of the day and year first above written.

(name of Recipient)

by its authorized signatory(ies):
