

LIMITED DELEGATION AGREEMENT BETWEEN THE STATE OF ALASKA AND [REDACTED]

This Limited Delegation Agreement (“Agreement”) is entered into this [REDACTED] day of [REDACTED], 20[REDACTED], between the State of Alaska (“State”) and [REDACTED] (“Tribe”), a federally recognized tribe located in [REDACTED] (collectively referred to as the “Parties”).

1. Statement of purpose

WHEREAS, the State and the Tribe recognize that:

- many of the more than 200 remote communities in Alaska, which are ancestral homelands to tribes, are geographically isolated;
- remoteness, lack of connection to a road system, and extreme weather conditions often prevent or delay travel by law enforcement personnel into remote communities, resulting in challenging law enforcement conditions;
- the use of culturally relevant local remedies in remote Alaska communities may assist in lowering crime, alcohol abuse, drug abuse, domestic violence, and rates of suicide, while fostering educational achievement and economic development;
- the tribes often can provide local, culturally relevant law enforcement services in communities and access to swift proceedings for certain offenses; and
- increasing tribal involvement in judicial services and law enforcement in remote Alaska communities will encourage community involvement, create greater local accountability with respect to domestic violence and substance abuse, and promote a stronger link between the Tribe, the State, and all Alaskans.

The State and the Tribe enter this Agreement in recognition of the above statements, in the spirit of cooperating on issues of mutual concern, and to improve the delivery of justice in rural Alaska.

GENERAL PROVISIONS

2. Definitions

- a. “Law enforcement officer” means Alaska State Troopers, Village Public Safety Officers (VPSOs), Village Police Officers (VPOs), Tribal Police Officers (TPOs), and/or cooperating municipal or borough law enforcement officers.

3. Eligibility

The Tribe represents and warrants that it meets the following eligibility criteria:

- a. The Tribe has passed a resolution or other official action from its governing body authorizing the Tribe to enter this Agreement (attached as Exhibit A).
- b. The Tribe has for the preceding 3 fiscal years no uncorrected significant and material audit exceptions regarding any federal or state contract or grant.
- c. The Tribe has sufficient governance capacity to conduct the program contemplated by this Agreement in a conscientious and effective fashion.
- d. The Tribe has written rules detailing the structure and procedures of the Tribal court and any Tribal law enforcement to be utilized in connection with this Agreement.
- e. If the Tribe has a liability insurance policy that may cover its activities under this Agreement (attached as Exhibit B), the liability insurance policy shall include the State of Alaska as an additional insured, and shall not contain any sovereign immunity term, rider or other provision that would deny the State of Alaska the benefits as an additional insured under the policy.

4. Offenses eligible for Tribal enforcement assistance

By this Agreement, the State authorizes the Tribe to offer civil Tribal remedies in lieu of State criminal prosecution for the following offenses: B misdemeanor offenses under Title 11 of the Alaska Statutes; minor consuming or in possession offenses including non-misdemeanor violations and misdemeanors (AS 04.16.050; AS 28.35.280); local option alcohol possession offenses in communities that have voted to ban the possession of alcohol, making it a violation of State law to possess alcohol in that community (AS 04.11.501); and, provided the offender has no prior domestic violence assault convictions or felony convictions against a person, assault in the fourth degree (AS 11.41.230) involving domestic violence as defined by AS 18.66.990 (See Exhibit C).

5. Tribal civil proceedings and remedies as an alternative to State prosecution

- a. Within the remote community associated with the Tribe, except as limited in paragraph 6 below for crimes involving domestic violence, law enforcement officers shall offer an offender (whether a member or nonmember of the Tribe) the option to have the Tribe impose a Tribal remedy in a Tribal civil proceeding in lieu of state prosecution. The offender's consent to the Tribal proceeding must be voluntary and in writing. By consenting, the offender agrees to comply with the tribally imposed remedy or face the possibility of prosecution in state court. The consent form shall notify the offender that he or she will not be entitled to a public defender in tribal court.
- b. Regardless of whether an offender consents to submit to the Tribal process, the law enforcement officer shall thoroughly investigate the offense, collect and retain all

evidence in accordance with normal operating procedures, including transferring information and evidence to the local Alaska State Troopers office for screening and potential prosecution; and the offender, if arrested, shall be processed under state law, including AS 12.25.150.

- c. The Tribal remedy for the offense may incorporate, but is not limited to, culturally derived procedures, such as restorative justice hearings and circle sentencing. The Tribe may coordinate with another participating tribal court on setting the remedy for the offense.
- d. The Tribal remedy may also include the following remedies: fines not to exceed \$250 and/or forfeiture of property valued at no greater than \$250 for the crimes committed under this Agreement.
- e. Any fines collected from an offender by the Tribal court should be used for restitution for the victim of the offense. Any funds remaining after victim restitution shall inure to the benefit of the Tribe.
- f. If, during the course of a Tribal court proceeding, the Tribal court becomes aware of potential criminal conduct involving misdemeanors not covered by this Agreement, or felony crimes, the Tribe shall notify the law enforcement officer who referred the matter to the Tribe.
- g. The State is not responsible for enforcement of Tribal court remedies and shall not incur any liability to the Tribe or third parties as a result of those remedies.
- h. The Tribe shall not incarcerate an offender pursuant to this agreement.
- i. By consenting to Tribal proceedings, the offender does not waive any state, federal, or tribal constitutional rights.

6. Offenses involving domestic violence

For all offenses in paragraph 4 involving domestic violence as defined by AS 18.66.990, and even if the offender consents to submitting to the Tribal process for implementation of a Tribal civil remedy, law enforcement officers shall comply with the requirements in AS 18.65, including:

- a. The law enforcement officers shall comply with the mandatory arrest provisions of AS 18.65.530, and shall promptly notify the local Alaska State Troopers office of the circumstances of the offense and the name and address of the offender.
- b. If necessary to protect the victim and the victim's family members and to prevent any further violence, law enforcement officers shall transport the victim and family

members to a safe location; assist the victim in removing belongings from a residence; and assist the victim and family members in obtaining medical treatment.

- c. If necessary to protect the victim or family members, the law enforcement officer may seize deadly weapons that are in plain view or, if the crime involved a deadly weapon, seize all deadly weapons owned, used, possessed, or controlled by the offender. The owner of the weapon may retrieve it 24 hours after a determination is made that it is not needed as evidence in a State criminal case.
- d. Law enforcement officers shall notify victims orally and in writing of the right to seek a protective order.
- e. Law enforcement officers shall notify victims orally and in writing of the resources available in the community and region for victims of domestic violence including, without limitation, contact information for the Office of Victim's Rights and the Violent Crimes Compensation Board.
- f. The law enforcement officer shall take into consideration the desires of the victim in deciding whether to offer civil tribal remedies in lieu of state criminal prosecution for offenses involving domestic violence.

7. Victim rights

To the extent practicable, the Tribe shall provide any victim of an offense covered by this Agreement with the following rights:

- a. To be notified of, to be present during, and to participate in tribal proceedings, and
- b. To be protected from harm and threats of harm.

8. Information collection and notice to the State

- a. The Tribe agrees that it will fill out a case form for every offender appearing before the Tribal court pursuant to this Agreement. The case form will include the offender's name, the circumstances of the offense, and the remedy ordered by the Tribal court. If the offender subsequently commits another eligible offense that is referred, a new case form shall be filled out.
- b. The Tribe shall attach to the case form the signed written consent of the offender indicating the offender's voluntary consent to the Tribal civil process and Tribal remedy.
- c. The Tribe will update the case form within 120 days after the Tribal remedy has been imposed to indicate whether the offender completed the assigned remedy. If the offender does not complete the assigned remedy, the Tribe shall promptly notify the

law enforcement officer who referred the offender to the tribal court, and provide that law enforcement agency with any information or evidence in its possession that would allow the State the opportunity to investigate the offense.

- d. The Tribe agrees to provide the case forms to the State Attorney General's Office contact in paragraph 22 on a quarterly basis. The Tribe shall also include any recommendations related to the timely and effective performance of the Tribe's responsibilities under the Agreement.

9. Indemnity and compact of self-governance

The Tribe shall indemnify, hold harmless, and defend the State, its agents, employees, and contractors, for any and all claims or actions for injuries or damages sustained by any person or property arising, in whole or in part, or directly or indirectly, from activities by the Tribe, or any other persons or entities involved in carrying out this Agreement and its associated terms and conditions. If the State is sued, the Tribe shall cooperate with the State in litigation (including producing any files or documentation) and waives its sovereign immunity for this purpose.

10. Waiver of sovereign immunity

The Tribe has executed a limited waiver of sovereign immunity solely for purposes of this Agreement (attached as Exhibit D).

11. State powers retained

Nothing in this Agreement limits, alters, or diminishes the civil or criminal jurisdiction of the State, including any political subdivision of the State. Even where an offender has consented to the Tribal proceeding and remedy as an alternative to prosecution under State law, the State may, in its sole discretion, inform the Tribal court that the State is moving forward with prosecution of the offense because of the particular facts and circumstances of the offense including, but not limited to the offender's history of not complying with the Tribal court remedy, or the fact that the offender has a record of multiple offenses.

12. Tribal powers retained

Nothing in this Agreement limits or diminishes the jurisdiction of the Tribe, including inherent and statutory authority of the Tribe over the health and welfare of the Tribe, including child protection and child custody matters. Nothing in this Agreement shall prevent the Tribe from assuming protective custody of an individual under emergency circumstances to prevent imminent harm to self or others.

Nothing in this Agreement creates a territorial basis for the jurisdiction of the Tribe or otherwise creates Indian country in any area of the State. Nothing in this Agreement confers any criminal jurisdiction on the Tribe.

13. Relationship of the Parties

This Agreement is by and between two independent entities and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever.

14. Term and termination

This Agreement shall be effective when signed by both Parties. The term of this Agreement shall continue until one year from the effective date. This Agreement may be terminated at any time by either Party upon (30) days written notice. The State and the Tribe agree to engage in discussions about renewal of this Agreement no later than (30) days before its one-year anniversary date.

15. Governing law

This Agreement shall be interpreted and construed in accordance with, and governed and enforced in all respects by, the laws of the State of Alaska. Any action brought by the Parties to interpret or enforce the terms of this Agreement shall be brought in State Superior Court for the district in which the remote Alaska community is located.

16. Entire agreement

This Agreement is the entire agreement between the State and the Tribe.

17. Survival of Agreement terms

Notwithstanding anything herein to the contrary, the Parties understand and agree that all terms and conditions of this Agreement (including the exhibits) that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive the termination date and shall remain enforceable by the State.

18. Interpretation

Both Parties have had a full and fair opportunity to consult with legal counsel, to ask questions, and to consider this Agreement's specific provisions. This Agreement will not be interpreted in favor of or against either Party.

19. No waiver for failure to demand strict performance

The failure by either Party to insist upon the strict performance of any part of this Agreement shall not be considered a waiver or relinquishment of any rights or obligations under this Agreement.

20. Severability

The terms of this Agreement are severable, and if any part of this Agreement is declared invalid by a court of competent jurisdiction, the remaining parts of this Agreement shall continue in full force.

21. Modifications or amendment

No modification to this Agreement shall take effect unless made in writing and signed by authorized representatives of the State and the Tribe. If the Tribe has any questions relating to the interpretation of this Agreement or associated laws, ordinances, regulations, or permits, State officials may request that the Tribe submit them in writing. The Tribe may rely only on written responses from State officials.

22. Contact information for notices required under this Agreement

The local Alaska State Troopers office contact is:

[name]
[address]
[phone]
[email].

The official Tribal representative responsible for ensuring compliance with this agreement and for receiving notifications from the State is:

[name]
[address]
[phone]
[email].

Forms required to be submitted to the State under this agreement and questions regarding the interpretation, enforcement, or renewal of this agreement shall be directed to:

[name]
Attorney General's Office
Opinions, Appeals, and Ethics Section
[address]
[phone].

[] Date
Tribe

[] Date
State

LIST OF EXHIBITS

**EXHIBIT A: A RESOLUTION APPROVING A LIMITED WAIVER OF
SOVEREIGN IMMUNITY AND AUTHORIZING THE LIMITED
DELEGATION AGREEMENT**

EXHIBIT B: TRIBAL LIABILITY INSURANCE POLICY

EXHIBIT C: ELIGIBLE OFFENSES

EXHIBIT D: TRIBAL LIMITED WAIVER OF SOVEREIGN IMMUNITY

**EXHIBIT E: CONSTITUTION, BYLAWS, AND/OR ORDINANCES OF
THE [REDACTED] TRIBE**

EXHIBIT A

**A RESOLUTION APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY
AND AUTHORIZING THE LIMITED DELEGATION AGREEMENT**

EXHIBIT B
TRIBAL LIABILITY INSURANCE POLICY

**EXHIBIT C:
ELIGIBLE OFFENSES**

ALCOHOL OFFENSES		
Offense Citation	Offense Description	
AS 04.11.501	Possession of alcohol after election where the majority of voters have voted to prohibit the possession of alcoholic beverages	
AS 04.16.050	Possession, control, or consumption of alcohol by persons under age 21	
AS 28.35.280	Minor operating a vehicle after consuming alcohol	
CLASS A MISDEMEANORS		
Offense Citation	Offense Description	
AS 11.41.230/ AS 18.66.990	Assault in the fourth degree by a household member against another household member, but only if the offender has no prior domestic violence assault conviction or prior felony conviction	*
CLASS B MISDEMEANORS		
Offense Citation	Offense Description	
AS 11.31.100	Attempt to commit a crime if the crime attempted is a class A or class B misdemeanor	
AS 11.31.110	Solicitation of another to engage in a crime where the crime solicited is a class A or class B misdemeanor	
AS 11.41.460	Indecent exposure in the second degree (victim 16 years or older)	*
AS 11.46.150	Theft in the fourth degree (value less than \$50)	
AS 11.46.220(c)(3)	Concealment of merchandise (value less than \$50)	
AS 11.46.260(b)(3)	Removal of ID marks on property (value less than \$50)	
AS 11.46.270(b)(3)	Unlawful possession (defaced, erased, or altered serial number or identification mark on property less than \$50)	
AS 11.46.280(d)(4)	Issuing a bad check (value less than \$50)	
AS 11.46.330	Criminal trespass in the second degree	*
AS 11.46.460	Disregard of a highway obstruction	
AS 11.46.486	Criminal mischief in the fifth degree	*
AS 11.46.530(b)(3)	Criminal simulation (when a person either makes or alters any object in such a manner that it appears to have a rarity, age, source, or authorship that it does not in fact possess, with an intent to defraud; or with knowledge of its true character and with intent to defraud, the person possesses or utters such an object. The value of what the object appears to represent must be less than \$50).	

CLASS B MISDEMEANORS (CONTINUED)		
Offense Citation	Offense Description	
AS 11.56.755(b)(1)	Unlawful contact in the second degree (arrest was for a felony or class A misdemeanor)	
AS 11.56.757(b)(2)	Violation of condition of release (release on charge or conviction of misdemeanor)	
AS 11.56.758(b)(2)	Violation of custodian's duty to report a violation of condition of release of a person released on a misdemeanor charge)	
AS 11.56.780	Hindering prosecution in the second degree	
AS 11.56.830	Impersonating a public servant in the second degree	
AS 11.61.110	Disorderly conduct	
AS 11.61.116(c)(1)	Sending an explicit image of a minor (image sent to another person)	
AS 11.61.120	Harassment in the second degree	
AS 11.61.120(a)(1)	Harassment 2-likely to provoke violence	
AS 11.61.120(a)(2)	Harassment 2-tie up phone line	*
AS 11.61.120(a)(3)	Harassment 2-repeated phone calls	*
AS 11.61.120(a)(4)	Harassment 2-anonymous,obscene,threatening communication	*
AS 11.61.120(a)(5)	Harassment 2-offensive physical contact	
AS 11.61.120(a)(6)	Harassment 2-publish/distribute pictures/films of genitals, anus, female breast, sexual acts	
AS 11.61.145(a)(3)	Promoting an exhibition of fighting animals (second offense)	
AS 11.61.150	Obstruction of highways	
AS 11.61.220	Misconduct involving weapons in the fifth degree	
AS 11.61.240(b)(5)	Criminal possession of explosives (intended to commit misdemeanor crime)	
AS 11.66.100(a)(1)	Prostitution (engage in sexual conduct for fee)	
AS 11.66.100(a)(2)	Prostitution (offer fee for sexual conduct)	
AS 11.66.200	Gambling (second or subsequent offense)	
AS 11.71.060	Misconduct involving a controlled substance in the sixth degree	
AS 11.76.115	Misconduct involving confidential information in the second degree	
AS 11.76.130	Interference with rights of physically or mentally challenged person	
AS 11.76.140(a)(2)	Avoidance of ignition interlock device (rent motor vehicle to probationer)	
AS 11.76.140(a)(3)	Avoidance of ignition interlock device (loan motor vehicle to probationer)	

* These are offenses involving domestic violence when committed by a household member against a household member.

“Household member” is defined as:

- (A) adults or minors who are current or former spouses;
- (B) adults or minors who live together or who have lived together;
- (C) adults or minors who are dating or who have dated;
- (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
- (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
- (F) adults or minors who are related or formerly related by marriage;
- (G) persons who have a child of the relationship; and
- (H) minor children of a person in a relationship that is described in (A)-(G) *See AS 18.66.990.*

**EXHIBIT D:
LIMITED WAIVER OF TRIBAL SOVEREIGN IMMUNITY IN CONNECTION
WITH THE LIMITED DELEGATION AGREEMENT**

**EXHIBIT E:
CONSTITUTION, BYLAWS, AND/OR ORDINANCES OF THE [REDACTED] TRIBE**