**DATA SHARING AGREEMENT**

This Data Sharing Agreement (“Agreement”), effective as of the date of last signature below (“Effective Date”), is made by and among the Board of Regents of the UNIVERSITY, a constitutionally created state entity of the state of STATE NAME, by and through the Office located at ADDRESS (“UNIV”); the U.S. Geological Survey, located at ADDRESS (“USGS”); and the TRIBE, with an address at ADDRESS (“TRIBE”). TRIBE, USGS and UNIV may be referred to herein in the singular as a “Party” and collectively as the “Parties.”

WHEREAS, UNIV has received an award from the United States Geological Survey (“USGS”) entitled “TITLE” (“Prime Agreement”);

WHEREAS, the TRIBE is uniquely situated to collect certain Indigenous Knowledge of the TRIBE NAME people (“Data”); and

WHEREAS, USGS will coordinate the funded project, including study design, data analysis, and product development; and

WHEREAS, UNIV desires to use such Data for the sole purpose of meeting UNIV’s obligations under the Prime Agreement;

NOW THEREFORE, in consideration of the mutual promises and obligations contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The TRIBE agrees to provide the Data to USGS during the Term of this Agreement. The TRIBE shall ensure that any culturally sensitive information, such as identifying particulars associated with particular individuals or sites, is removed, aggregated, or anonymized from the Data while maintaining the effective utility of the Data, prior to providing such Data to USGS. UNIV shall receive information and access to Data as provided by USGS for the project.
2. The TRIBE shall retain ownership of the Data. All intellectual property in the Data remains the property of the TRIBE or Indigenous Knowledge holder. No license to use any intellectual property is granted or implied by this Agreement other than the rights expressly granted in the Agreement.
3. The TRIBE grants a non-exclusive license to USGS and UNIV to use the Data for the sole purpose of UNIV complying with its obligations to USGS under the Prime Agreement, including but not limited to, submitting progress reports to USGS, and providing the Federal Government with a non-exclusive license to use the Data for Government purposes.
4. Each Party shall have the right to publish and disseminate information derived from the Data. Authorship shall be determined in accordance with the customs, standards or criteria on authorship of the academic discipline. The publishing Party shall provide the other Party with a copy of any proposed publication for review and comment at least thirty (30) days prior to submission. All publications must comply with the applicable publication terms of the Prime Agreement, including any required acknowledgement of support and disclaimer.
5. Neither Party may use the name or mark of the other nor the name(s) of the other’s employees in news releases, publicity, advertising, or product promotion without the prior written permission of the other.
6. The Parties do not anticipate the need to disclose to each other technical data that are subject to control under the Commerce Control List of the Export Administration Regulations, 15 CFR 730-774, or the U.S. Munitions List of the International Traffic in Arms Regulations, 22 CFR 120-130, (collectively, “export controls”).  In the event a Party believes it is necessary to disclose technical data that are regulated under export controls, the Disclosing Party will clearly mark such data as “Export Controlled” and provide sufficient notice and information to allow Receiving Party to comply with any applicable export controls.  The Parties shall not export, disclose, or transfer any such data directly or indirectly without complying with these and any other applicable laws and regulations.
7. As applicable, the provisions of Executive Order (EO) 11246, as amended by EO 11375 and EO 11141 and as supplemented in Department of Labor regulations (41 C.F.R. Part 60-1.4(a), 60-300.5(a), and 60-741.5(a) *et seq.)* are incorporated into this AGREEMENT and must be included in any subcontracts awarded involving this AGREEMENT. The Parties represent that all services are provided without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, national origin, disability, political beliefs, or veteran’s status; they do not maintain nor provide for their employees any segregated facilities, nor will the Parties permit their employees to perform their services at any location where segregated facilities are maintained. In addition, the Parties agree to comply with the applicable provisions of Section 504 of the Rehabilitation Act and the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, 38 U.S.C. §4212.
8. The Parties acknowledge that USGS, as a federal agency, is subject to the Freedom of Information Act (5 U.S.C. § 552). In the event that any FOIA request seeks access to Data provided under this Agreement, USGS shall promptly notify TRIBE and UNIV upon receipt of such a request. USGS will make good faith efforts to protect culturally sensitive or confidential information, including asserting applicable FOIA exemptions (e.g., Exemptions 4 and 6), to the extent permitted by law.
9. The Parties further acknowledge that UNIV, as a state-affiliated institution, is subject to the STATE Open Records Act (info). In the event that any Open Records Request seeks access to Data provided under this Agreement, UNIV shall promptly notify TRIBE and USGS upon receipt of such a request. UNIV will make good faith efforts to protect culturally sensitive or confidential information to the extent permitted by law.
10. This Agreement shall commence as of the Effective Date and continue for a period of five (5) years (the “Term”). This Agreement may be terminated at any time with thirty (30) days’ prior written notice by either Party to the other Party. Alternatively, if either Party commits any material breach of or default in any of the terms or conditions of this Agreement and fails to remedy such breach or default within thirty (30) days after receipt of written notice thereof from the other Party hereto, the Party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending written notice of termination to the other Party, and such termination shall be effective as of the date of the receipt of such notice. At the expiration or termination of this Agreement, UNIV shall discontinue its use of Data and, at the TRIBE’s direction, either destroy or promptly return to the TRIBE all Data.
11. All legal notices to UNIV, including notices of service of process, must be sent by personal delivery or certified mail, return receipt requested, to the following address:

Board of Regents of the UNIV

ADDRESS

A copy of all legal notices and all other notices to UNIV shall be directed to the following address:

UNIV Office

ADDRESS

All notices to the USGS shall be directed to the following address:

USGS Contact

ADDRESS

All notices to the TRIBE shall be directed to the following address:

TRIBE Contact

ADDRESS

1. None of the Parties is authorized or empowered to act as agent for the other for any purpose and shall not enter or purport to enter into any contract, warranty, or representation as to any matter on behalf of either of the other Parties. None of the Parties shall be bound by the acts or conduct of the other Parties.
2. This Agreement may not be assigned by any of the Parties in whole or in part without the prior written permission of the other Parties. The Parties agree that this Agreement shall be binding upon their respective successors, assigns or transferees of any nature, if assignment is permitted in accordance with the terms of this Agreement.
3. This Agreement constitutes the entire agreement and understanding among the Parties and supersedes all prior and/or contemporaneous discussions, representations, or agreements, whether written or oral, of the Parties relating to the work to be performed. This Agreement may be extended, renewed or otherwise amended at any time by the mutual written agreement of the Parties.
4. If any provision(s) of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
5. This Agreement may be executed in several counterparts, each of which shall be deemed the original, but all of which shall constitute one and the same instrument. This Agreement may be executed using electronic or digital signatures, which shall have the same force and effect as a manual signature.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below.

# U.S. GEOLOGICAL SURVEY TRIBE

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Name: Name:

Title: Title:

Department: Department:

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

READ AND UNDERSTOOD READ AND UNDERSTOOD

USGS Principal Investigator TRIBE Principal Investigator

Date: Date:

UNIVERSITY

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

READ AND UNDERSTOOD:

UNIV Principal Investigator

Date: