

AGENCY AGREEMENT

This Agency Agreement ("Agreement") is made this 25 day of July, 2023, by THE LOCAL DEVELOPMENT FINANCE AUTHORITY OF THE CITY OF SAULT STE. MARIE, a local development finance authority under the provisions of Act 281, Public Acts of Michigan, 1996, the address of which is 225 E. Portage Avenue, Sault Ste. Marie, Michigan 49783, hereinafter "the LDFA", and HEADWATERS NORTH CORPORATION ("Headwaters North"), a Michigan non-profit corporation, the address of which is 225 East Portage Avenue, Sault Ste. Marie, Michigan.

RECITALS

The LDFA, the Michigan Economic Development Corporation, hereinafter "the MEDC", Lake Superior State University, and the City of Sault Ste. Marie (the "City") are parties to the SmartZone Agreement dated December 16, 2008 "the SmartZone Agreement". The LDFA has submitted a related development plan, hereinafter "the LDFA Plan", to the MEDC which has been approved by the MEDC. Pursuant to the terms of the SmartZone Agreement and the LDFA Plan, the LDFA has created a "Business Incubators" or "Certified Technology Park" within the meaning of the SmartZone Agreement and pursuant to the terms of the LDFA Plan. The LDFA requires assistance on a day-to-day basis to conduct its business in the ordinary course under the SmartZone Agreement and the LDFA Plan. Section 3.01(b) of the SmartZone Agreement permits the LDFA to make a contract with Headwaters North to assume, on behalf of the LDFA, the responsibility of operating and planning the activities supported by the LDFA, conducting an integrated market study, generating specific marketing

plans, identifying methods of facilitating technological commercialization, and the implementation of an integrated marketing program. Headwaters North is willing to serve as the agent of the LDFA for these purposes and, consequently, the LDFA and Headwaters North make this Agency Agreement.

COVENANTS

In consideration of the mutual covenants set forth below, the parties agree as follows:

1. The LDFA appoints Headwaters North as its agent to conduct activities of the LDFA on a day-to-day basis in connection with the SmartZone Agreement and the LDFA plan. Headwaters North accepts this appointment. In its capacity as agent for the LDFA, Headwaters North shall assume on behalf of the authority:

- a. The responsibility for operating and planning activities of, or supported by, the LDFA;
- b. Conducting marketing studies;
- c. Generating specific marketing plans;
- d. Identifying methods of facilitating technology commercialization;
- e. Implementation of integrated marketing programs; and
- f. Such other tasks as the LDFA may assign to Headwaters North in writing, from time to time, with acceptance of such assignments by Headwaters North in writing.

2. Upon written request of the LDFA, Headwaters North will, with reasonable advance notice, prepare on behalf of the LDFA written reports, grant requests, or other official documents required from or by the LDFA for submission to the State of Michigan or other governmental authority.

3. In connection with its administration of the business of the LDFA, Headwaters North may assist the City in the preparation of an annual budget for each fiscal year of the LDFA. Except as otherwise expressly limited or directed in writing by the LDFA, Headwaters North shall have full and unilateral authority to expend funds on behalf of the LDFA as determined by Headwaters North in its sole discretion, consistent with the approved budget and the terms and conditions of this Agreement, and without the necessity of securing any further approvals or consents. The LDFA shall meet quarterly and pay Headwaters North as funds become available, without the need for any invoicing from Headwaters North. At the end of each fiscal year, the LDFA may retain a minimum fund balance for itself but shall otherwise promptly transfer all remaining funds to Headwaters North.

4. Headwaters North shall provide to the LDFA quarterly financial reports, including at least a balance sheet and statement of income and expenditures. These quarterly reports shall be due to the LDFA within sixty (60) days of the end of each quarter. The quarters of the fiscal year shall end on September 30, December 31, March 31, and June 30.

5. The term of this Agreement ("Term") shall continue from year to year until terminated by either party or by mutual agreement. Either party may terminate this Agreement by giving written notice to the other party at least ninety (90) days before the date specified for termination in the notice. In the event of such termination, payments due from the LDFA to Headwaters North toward the annual budget will be prorated as of the date of termination. After a notice of termination has been given, Headwaters North shall make no expenditures from its annual budget for any single item in excess of One Thousand Dollars (\$1,000.00) without the prior written consent of the LDFA. Headwaters North shall return to the LDFA any amounts paid by the LDFA to Headwaters North toward its annual budget which remain unexpended. This reimbursement due from Headwaters North to the LDFA shall be paid within fifteen (15) days within of the date of termination or within (15) days of the last expense made prior to the date specified for termination.

6. Headwaters North hereby acknowledges that its first priority is to act as an agent of the LDFA pursuant to the terms and provisions of the SmartZone Agreement and the LDFA Plan. However, Headwaters North may conduct projects and activities beyond its duties as agent of the LDFA. In other words, the activity of Headwaters North need not be exclusively dedicated to the LDFA. However, projects and activities of Headwaters North not undertaken pursuant to the terms and provisions of the SmartZone Agreement and the LDFA Plan shall not be financed from funds paid by the LDFA toward the annual agency budget of Headwaters North; rather, the separate projects shall be funded by the separate funds of Headwaters North, and Headwaters North shall maintain separate financial account classes that show the expenditure.

7. The LDFA shall indemnify and hold harmless Headwaters North and its directors, officers, employees, agents and representatives (collectively, the "Indemnitees"), from any liability, loss, claim, cause of action, damages, or any costs and expenses, including without limitation attorney's fees, incurred by or asserted against the Indemnitees, or any one or more of them, arising out of or relating to their performance under this Agreement in accordance with the instructions or directions of the LDFA. This right of indemnification shall survive indefinitely the Term and termination of this Agreement.

8. This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, oral and written, between the parties with respect thereto. Neither this Agreement, nor any provision hereof, may be changed, waived, discharged, supplemented, or terminated orally, but only by an agreement in writing signed by the party against which the enforcement of such change, waiver, discharge, or termination is sought.

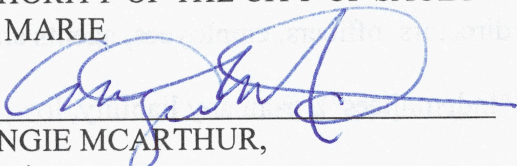
9. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement.

10. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

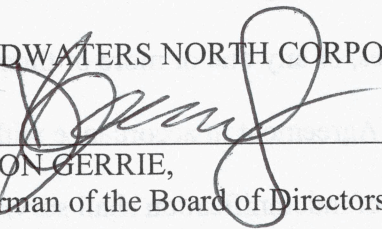
11. This Agreement shall be governed by and construed in accordance with the laws of the state of Michigan.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have made this Agreement on the day and year above mentioned.

LOCAL DEVELOPMENT FINANCE
AUTHORITY OF THE CITY OF SAULT
STE. MARIE

By 
ANGIE MCARTHUR,
Its Chairman

HEADWATERS NORTH CORPORATION

By 
DON GERRIE,
Chairman of the Board of Directors

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