**Confidentiality and Security Agreement**

This Confidentiality and Security Agreement (this “CSA”) is made as of \_\_\_\_\_\_\_\_\_, 2015, between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [“Client”] and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Vendor”).

Pursuant to a service agreement between the parties, of even date herewith, and pursuant to any further service agreements to which the parties agree in the future (altogether, the “Service Agreement”), CLIENT has engaged Vendor or will engage Vendor to provide certain services (the "Services").

Effective as of the date written above, intending to be legally bound, and as a condition of entry into and performance of the Service Agreement, the parties hereby agree as follows.

1. Definitions.
   1. “Client Confidential Information” means (except as expressly excluded below) all information or data received by Vendor from Client or its members, donors, subscribers, volunteers, clients or employees, or from the web sites operated by Client (the "Client Web Sites"), or otherwise as a result of Vendor’s performance of the Services. Client Confidential Information includes, without limitation, all information regarding Client’s past, current and future legal representations, advocacy and education projects, governance and management affairs, internal legal and compliance affairs and fundraising activities, as well as all Personally-Identifying Information (defined below) regarding any individual. However, Client Confidential Information does not include information that Vendor can show from its own documents was: (a) already known to Vendor before its disclosure to Vendor in connection with Vendor’s performance of the Services; (b) independently developed or collected by Vendor without reference to any Client Confidential Information; (c), available to the general public at the time it was disclosed to Vendor; or (d) placed into the public domain, by a party unrelated to Vendor, prior to Vendor’s disclosure of it to any other party.
   2. “Client System” means the entirety of all Client Web Sites, intranet systems and computer systems, including hardware, software and data.
   3. “Personally-Identifying Information” includes, but is not limited to, names, home and work addresses, home and work telephone numbers, e-mail addresses, social security numbers, bank account information and credit card information regarding visitors to the Client Web Sites and any of Client’s prospective, current and former members, donors, subscribers, volunteers, clients and employees.
2. Vendor’s Confidentiality Obligations.
   1. Use and Disclosure. Vendor acknowledges that in performing the Services it will have access to, or be directly or indirectly exposed to, Client Confidential Information. Vendor shall use Client Confidential Information solely for the purpose of performing the Services and for no other purpose. Vendor shall take all commercially reasonable measures to protect all Client Confidential Information from disclosure, including measures at least as strict as those measures Vendor uses to protect its own confidential information. Vendor shall not disclose Client Confidential Information to any parties other than any of Vendor’s employees or approved subcontractors who have a need to access such information in carrying out Services on Vendor’s behalf, and only to the extent such employees or subcontractors are bound by the substantive terms of, and have executed, the Acknowledgement of Subcontractor/Employee Confidentiality Requirements attached hereto as Attachment 1.
   2. Mandatory Disclosure. If Vendor is or may be required by law or by legal process to disclose any Client Confidential Information, then before any such disclosure, Vendor shall promptly notify the Client of such fact so that Client may (i) seek an appropriate protective order or (ii) waive Vendor’s compliance with the relevant provisions of this CSA with respect to such information. In either case Vendor shall cooperate with any Client effort to prevent or restrict such disclosure. If, in the absence of a protective order or a waiver hereunder, Vendor is nonetheless legally required, in the reasonable written opinion of its counsel, to disclose Client Confidential Information or else stand liable for contempt or suffer other censure or penalty, then Vendor may disclose the requested portion of the Client Confidential Information without liability under this CSA, but in disclosing such Client Confidential Information, Vendor shall (a) furnish only that portion of the Client Confidential Information that Vendor is advised by its counsel it is required to disclose and (b) exercise reasonable best efforts to obtain assurance that the receiving party will protect the confidentiality of the disclosed portion of the Client Confidential Information.
   3. Return and Destruction of the Client Confidential Information. Upon (i) the termination of the Service Agreement for any reason, (ii) completion of the Services, or (iii) request by Client, Vendor shall: (a) return promptly to Client all tangible copies and the primary electronic version of all Client Confidential Information in its possession, together with any improvements or modifications to Client Confidential Information, and all tangible copies of any documents, memoranda, notes, and any other writings whatsoever prepared by or for Vendor based on the Client Confidential Information, and (b) except where deletion or destruction is prohibited by judicial or administrative order, delete or destroy all digital copies of Client Confidential Information, and all digital copies of any memoranda, notes, or other writings whatsoever prepared by or for Vendor based on Client Confidential Information. Upon Client 's request, Vendor shall confirm in writing, by way of a certificate of a senior officer, the return or destruction of all Client Confidential Information.
3. Vendor’s Security Obligations.
   1. Protection of Client System. To any extent that in providing the Services Vendor has access to the Client System (which includes, without limitation, Vendor’s transmission or storage of electronic files or other electronic data to the Client System), Vendor shall meet all commercially reasonable technological security standards, including, but not limited to, the use of computer firewalls, strong user authentication, encrypted transmissions and storage, anti-malware programs, regular and timely software security patch application, and controlled access to the physical location of computer hardware, to protect the Client Confidential Information and the Client System against any damage, disruption or interference from any destructive computer programming including, but not limited to, harmful computer instructions, viruses, Trojan horses, and worms (“Harmful Code”) introduced by or through any hardware or software delivered or used by Vendor.
   2. Secure Internet Transmission. If Vendor uses the Internet to send or receive Client Confidential Information, then Vendor shall use Internet standard encryption technologies, including, but not limited to, 128-bit Secure Socket Layer (SSL), to provide a secure environment for conducting transactions and transferring Client Confidential Information.
   3. Security Reviews. Vendor shall conduct periodic reviews, not less frequently than once a year, of any Vendor electronic systems storing Client Confidential Information, in order to evaluate the security risks of such systems. In addition, Client may conduct periodic vulnerability scans of any network or site maintained by or for Vendor that houses Client Confidential Information.  Vendor shall take all reasonable steps to facilitate such scans by Client, and shall promptly remediate any material vulnerability identified by Client in the course of such scans.
4. Notice of Unauthorized Disclosure or Security Breach. Vendor shall immediately notify Client of (i) unauthorized disclosure or use of any Client Confidential Information, (ii) any breaches of security that may compromise the Client System or Vendor’s ability to safeguard the Client Confidential Information, or (iii) any technical difficulties that may compromise the Client System or Vendor’s ability to safeguard the Client Confidential Information. In each such instance, notice shall include, at a minimum, a telephone call and a written message (in hard copy or by email) to each of the following contacts:

[contact info for current director of IT]

[contact info for current corporate counsel]

1. Indemnification. Vendor hereby indemnifies Client against losses and expenses that arise from any unauthorized disclosure of or damage to the Client Confidential Information, or damage to the Client System, as a result of Vendor’s breach of this CSA, gross negligence or willful misconduct. Client will have the right to participate in the defense of any claim that is subject to such indemnification with its own counsel and at its own expense.
2. Injunctive Relief. Vendor acknowledges that the unauthorized disclosure or use of any Client Confidential Information could cause irreparable harm and significant injury, the precise measure of which may be difficult to ascertain. Vendor agrees that if it breaches or threatens to breach this CSA, Client, in addition to any other remedies it may have at law or in equity, will be entitled to equitable relief, including injunctive relief and specific performance, without the requirement of posting a bond or other security, and notwithstanding any other provision of this CSA or the Service Agreement.
3. Survival. Vendor’s obligations pursuant to this CSA survive indefinitely beyond the termination or expiration of the Service Agreement.
4. Amendment. No amendment, modification, or supplement of this CSA shall be valid or take effect unless it is in writing and signed by both parties.
5. Conflict and Ambiguity. The parties may choose, from time to time and in the context of duly adopted provisions of the Service Agreement, to establish further terms and conditions regarding confidentiality and security. However, no such further terms or conditions will be deemed to relieve Vendor of any duty or liability established in this CSA, except to any extent that the parties have expressly agreed in writing that they intend to create an exception to the terms of this CSA with regard to some specific data, service or process.
6. Governing Law. This CSA is governed by and construed under the laws of \_\_\_\_\_\_ without regard to its conflict of laws provisions. The parties irrevocably consent to the exclusive jurisdiction and venue of any state or federal court of competent jurisdiction in \_\_\_\_\_\_, in any action, suit or other proceeding arising out of or relating to this CSA, and they waive any objection to venue based on the grounds of *forum non conveniens* or otherwise.
7. Successors and Assigns. The rights and remedies of Client pursuant to this CSA shall inure to the benefit of the respective successors, assigns, and transferees of the Client, and Client may assign such rights and remedies without notice to or consent from Vendor. Vendor may not assign any obligations it holds or may hold pursuant to this CSA without the prior written consent of Client, and any purported assignment without such consent shall be null and void.
8. Invalidity. If any provision of this CSA is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. In such a case, the parties shall replace the invalid provision with a legally admissible arrangement, which comes nearest to the intended purpose of the invalid provision.

In witness whereof the parties are executing this CSA as of the date first written above.

**[CLIENT]**

By:

Title:

**[VENDOR]**

By:

Title:

**Attachment 1**

**Acknowledgement of Subcontractor/Employee Confidentiality Requirements**

I, , have agreed to provide certain services to [Vendor] for the benefit of [Client], in connection with a service agreement between Vendor and Client dated as of [DATE] (the "Agreement"). I hereby acknowledge and agree that the responsibilities set forth below are within the scope of the services I am to provide, and constitute a material element of the duties I am to perform in consideration for the payment to me by Vendor.

1. In connection with my services, I will have access to information that constitutes Client Confidential Information, which includes (except as expressly excluded below) all information or data received by me directly or indirectly from the Client or its members, customers, donors, subscribers or employees, or from the web sites operated by the Client (the " Client Web Sites"), or otherwise as a result of my performance of my obligations pursuant to the Agreement (my performance of the “Services”). Client Confidential Information includes, without limitation, all information regarding Client technical, business, and promotional affairs, current and future projects and campaigns, contracts and business relations, financial statements and other financial data, and any Personally-Identifying Information. “Personally-Identifying Information” includes, but is not limited to, names, home and work addresses, home and work telephone numbers, e-mail addresses, social security numbers, bank account information and credit card information regarding visitors to the Client Web Sites and any of Client’s members, customers, donors, subscribers, employees, prospects, clients and volunteers. Client Confidential Information does not include information that I can show from my own documents was: (a) already known to me before its disclosure to me in connection with my performance of the Services; (b) independently developed or collected by me without reference to any Client Confidential Information; (c), available to the general public at the time it was disclosed to me; or (d) placed into the public domain, by a party unrelated to me, prior to my disclosure of it to any other party.
2. All Client Confidential Information must be protected from unauthorized use and disclosure. To that end, I shall (i) hold all Client Confidential Information in strict confidence; (ii) not disclose any Client Confidential Information to any third party, and (iii) not use any Client Confidential Information for any purpose other than to perform services for Vendor on behalf of Client.
3. I shall not access any Client Confidential Information by any electronic means, other than (i) through the Client computer system, and (ii) within the limits of the type and extent of access I have been granted to use such computer system.
4. Upon completion of my services, I shall (a) return promptly to Vendor or Client, as I am directed, all tangible copies of Client Confidential Information in my possession, together with any improvements or modifications to the Client Confidential Information, and all tangible copies of any documents, memoranda, notes, and any other writings whatsoever prepared by me based on the Client Confidential Information, and (b) except where deletion or destruction is prohibited by judicial or administrative order, delete or destroy all digital copies of the Client Confidential Information and all digital copies of any memoranda, notes, and other writings whatsoever prepared by me based on the Client Confidential Information.
5. My duty to safeguard the Client Confidential Information continues after the termination or expiration of the Agreement. Any breach of the confidentiality duties incumbent on me shall (i) be grounds for termination of the Agreement, and (ii) may subject me to liability to Vendor, or to Client, which is an intended third-party beneficiary of my contract with Vendor. In the event that Client seeks redress against me in connection with my obligations set forth above, I agree that Client may do so in the federal or state courts located in \_\_\_\_\_\_\_\_, in the State of \_\_\_\_\_\_\_\_, and I waive any objection to such venue based on *forum non conveniens* or otherwise.

Signed: \_ Date: