

Non-Disclosure and Confidentiality Agreement

This Non-Disclosure and Confidentiality Agreement (the "**Agreement**"), dated as of the last date executed below ("**Effective Date**"), is between the Monroe County Water Authority, a public benefit corporation with offices located at 475 Norris Drive, Rochester, New York 14610 ("**Disclosing Party**") and _____ ("**Recipient**"), having a principle office address of _____.

1. **Use and Disclosure.** In connection with a solicitation by the Disclosing Party for work to conduct cyber-security tests on networks, computer systems, or other information technology systems, the Disclosing Party will provide Recipient with Confidential Information (as defined herein) concerning those systems in order to allow the Recipient to respond to the solicitation (the "**Purpose**"). Recipient shall use the Confidential Information solely for the Purpose and, subject to Section 3, shall not disclose Confidential Information to any other person. Recipient shall safeguard the Confidential Information from unauthorized use, access, disclosure, or loss and will immediately notify Disclosing Party of any such event.

2. **Confidential Information.** "**Confidential Information**" means all information, in whatever form or medium whether or not marked or designated as "confidential," of Disclosing Party, or prepared by Disclosing Party or any of its agents, attorneys, or representatives, in connection with the Purpose. Confidential Information does not include any information that is generally available to the public other than as a result of Recipient's or its agents, attorneys, or representatives (collectively, "**Representatives**") breach of this Agreement.

3. **Exceptions.** To the extent that Recipient or any of its Representatives are required by legal order to disclose any Confidential Information, Recipient shall immediately and without delay notify Disclosing Party of such order so that Disclosing Party may seek a protective order or other remedy, and Recipient shall reasonably assist Disclosing Party therewith. If Recipient remains legally compelled to make such disclosure, it shall disclose only that portion of the Confidential Information that it is required to disclose and use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.

4. **Return of Confidential Information.** Following completion of the Purpose, Recipient shall promptly return to Disclosing Party or destroy all Confidential Information in its and its Representatives' possession, and certify in writing the destruction of such Confidential Information.

5. **Warranty.** Disclosing Party makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information for purposes of responding to the solicitation, or its merchantability or fitness for a particular purpose, and will have no liability to Recipient or any other person relating to Recipient's use of any Confidential Information or any of its products or any errors therein or omissions therefrom.

6. **Rights.** Disclosing Party retains its entire right, title and interest in and to all Confidential Information. Disclosure of Confidential Information will not be construed as a license, assignment, sale or other transfer of any right, title and/or interest to Recipient or any other person.

7. **Term.** The rights and obligations of the parties under this Agreement shall commence upon the Effective Date and shall continue indefinitely.

8. **Equitable Relief and Attorneys' Fees.** Recipient acknowledges and agrees that any breach of this Agreement will cause injury to Disclosing Party for which money damages would be an inadequate remedy and that, in addition to remedies at law, Disclosing Party is entitled to seek equitable relief as a remedy for any such breach. In any action or proceeding by Disclosing Party to enforce the terms of this Agreement, Recipient shall pay all reasonable attorneys' fees and costs of Disclosing Party.

9. **Governing Law.** This Agreement is governed by, and shall be construed in accordance with, the laws of the State of New York, without regard to the conflict of laws provisions. Any legal suit, action or proceeding relating to this Agreement must be instituted in the Courts of the State of New York located in Monroe County, New York. Each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

10. **Notices.** All notices must be in writing and addressed to the relevant party at its address set forth in the preamble. All notices must be personally delivered or sent prepaid by nationally recognized courier or certified or registered mail, return receipt requested, and are effective upon actual receipt.

11. **Waiver.** No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof.

12. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to its subject matter, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, whether written or oral, with respect to such subject matter. This Agreement may be amended, modified, waived or supplemented only by an agreement in writing signed by both parties.

13. **Assignment.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successor and assigns; provided that no party may assign its rights or obligations under this Agreement to any person or entity without the prior written consent of the other parties.

14. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

15. **Headings.** The headings contained in this Agreement are for convenience of reference and do not affect the interpretation of this Agreement.

16. **Counterparts.** This Agreement may be signed in multiple copies, all of which together shall constitute one and the same instrument. Facsimile signatures or signatures delivered by email in .pdf or similar format will be deemed original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Name of Recipient Company

By: _____
Name: _____
Title: _____

Monroe County Water Authority

By: _____
Name: _____
Title: _____