

CONTRACT No. C000254
NEW YORK STATE EXECUTIVE CHAMBER AND
ARNOLD & PORTER KAYE SCHOLER LLP
FOR LEGAL SERVICES
FOR THE PERIOD
March 8, 2021 THROUGH OCTOBER 31, 2021

This is an AGREEMENT by and between the New York State Executive Chamber (hereinafter referred to as "CHAMBER") and Arnold & Porter Kaye Scholer LLP (hereinafter referred to as "LAW FIRM" or "CONTRACTOR"), a law firm with offices at 250 West 55th Street, New York, NY 10019-9710.

WITNESSETH

WHEREAS, on March 1, 2021, the Governor made a referral pursuant to Executive Law § 63 (8) for the Attorney General to conduct an inquiry into allegations of and circumstances surrounding sexual harassment claims made against the Governor; and

WHEREAS, the CHAMBER requires outside counsel to provide legal advice and assistance with respect to the Attorney General inquiry including any investigations undertaken by the Assembly regarding this matter (hereinafter referred to as the "Legal Matter") to facilitate the Chamber's cooperation and the production of documents and other material to which the Attorney General is entitled; and

WHEREAS, the CHAMBER has determined that LAW FIRM is uniquely and exceptionally qualified to perform such services; and

WHEREAS, LAW FIRM is capable of handling this matter in an expedited and skillful manner;

NOW, THEREFORE, in consideration of the terms and conditions of this AGREEMENT, it is hereby mutually agreed by and between the CHAMBER and the CONTRACTOR (each individually a "PARTY" and collectively "PARTIES"), as follows:

I. SERVICES TO BE PROVIDED

The CHAMBER hereby engages LAW FIRM to provide legal services in connection with the Legal Matter and any other related inquiries, investigations, or other requests for information made by investigative authorities, other than civil matters in which the Attorney General typically represents the CHAMBER. These legal services may include, but are not be limited to, consulting with the CHAMBER as to strategy, substance, and procedure; document collection, review and production; drafting and reviewing documents; legal research; fact research; interviews; assistance with drafting responses and communicating with investigative authorities; as well as any other legal advice in support of or related to CHAMBER's cooperation with law enforcement authorities.

II. TERM

The CHAMBER hereby engages LAW FIRM to furnish legal services set forth in Section I, for the period of March 8, 2021 through October 31, 2021.

III. COMPENSATION

A. LAW FIRM shall bill the CHAMBER monthly for services performed under this AGREEMENT according to the following hourly rates:

| Name | Title | Discounted Rate |
|------------------------|-----------------|-----------------|
| Fishman, Paul | Partner | \$995.00 |
| Schreck, Debra E | Partner | \$780.00 |
| Theodore, Elisabeth S. | Partner | \$780.00 |
| Amar, Dipanwita | Partner | \$768.70 |
| Fietkiewicz, John M. | Senior Counsel | \$941.20 |
| Bernstein, Daniel R. | Senior Attorney | \$697.50 |
| Gorin, Mindy | Associate | \$412.50 |
| Higgins, Rachel K. | Associate | \$472.50 |
| Feldshon, Arielle Z. | Associate | \$588.70 |
| Russell, David | Associate | \$588.70 |
| Callahan, Sam | Associate | \$633.70 |
| Budhu, Ryan | Associate | \$663.70 |
| Diton, Matthew | Associate | \$663.70 |
| Oh, Jennifer | Associate | \$663.70 |
| Mezzanotte, John | Associate | \$678.70 |
| Rey, Katelyn E. | Associate | \$678.70 |
| Mordecai, Rachel | Staff Attorney | \$435.00 |
| Dimitrova, Anelia | Staff Attorney | \$435.00 |
| Martin, Meghan C. | Staff Attorney | \$435.00 |
| Boone, Joshua M. | Staff Attorney | \$435.00 |
| Wigfall, Nellie C. | Staff Attorney | \$465.00 |
| Ng, Kathy | Staff Attorney | \$465.00 |
| Galvez, David J. | Staff Attorney | \$465.00 |
| Babounakis, James | Staff Attorney | \$465.00 |
| Lee, Mariana | Legal Assistant | \$195.00 |
| Goodrich, Josh | eData | \$195.00 |
| Burrus, Randall | eData | \$195.00 |
| Huie, Edwin S. | eData | \$195.00 |
| Rastin, Sina | eData | \$195.00 |
| Smalls, Yolanda | eData | \$195.00 |
| Washington, Regan M. | eData | \$195.00 |
| Burger, Thomas M. | eData | \$195.00 |
| McClendon, Wendy K. | eData | \$195.00 |

LAW FIRM's hourly rates for attorneys on this AGREEMENT are significantly discounted from its standard hourly rates (by 25%-43% on these rates).

- B. LAW FIRM will bill for routine out-of-pocket expenses incurred on CHAMBER's behalf, such as filing fees, transcript expenses, travel (in accordance with NYS Travel Guidelines), messenger service, photocopies, long distance telephone calls, facsimiles and computerized research. Any extraordinary expenses, such as those for contract attorneys or third-party eDiscovery or forensic vendors, will be incurred only after discussion and agreement between LAW FIRM and CHAMBER.
- C. Total payments under this AGREEMENT, inclusive of routine out-of-pocket expenses, shall not exceed a maximum amount of \$5,100,000, which does not mean that this maximum amount will actually be spent. If the parties agree that the payment amount under this AGREEMENT should be increased, the AGREEMENT may be amended subject to approval by the State Comptroller.
- D. Contractor's Services will include assistance from its internal e-Discovery + Data Analytics group. Contractor will charge hourly rates for substantive project management and advisory support, certain monthly per unit amounts, that is: \$14.00 per GB for active e-Discovery hosting, data processing and document production, \$2.00 per GB for near-line hosting, \$1.00 per GB for offline/archive storage, and \$75.00 per external Relativity user license.
- E. Fees, disbursements and charges shall become payable pursuant to NYS Finance Law Article 11-A and upon the receipt of an approvable invoice that includes the following information:
 - 1. The AGREEMENT number (C000254), the CONTRACTOR's New York State Vendor Identification Number (1100190872), and an invoice number;
 - 2. The start and end date of the period to which the statement pertains;
 - 3. A brief description of the work performed;
 - 4. The name of the individual(s) performing the service, such person's title, and billing rate;
 - 5. A summary of the total number of hours of services performed;
 - 6. The date(s) each billed service was rendered;
 - 7. A description of all reimbursable disbursements and expenses itemized by category, including travel, with receipts and documentation; and
 - 8. The total amount billed for services for the invoice period.
- F. All invoices should be submitted electronically to the CHAMBER at contracts@budget.ny.gov.
- G. LAW FIRM agrees to provide the CHAMBER with such detailed documentation substantiating fees and disbursements as the CHAMBER may reasonably request.
- H. LAW FIRM acknowledges that it will not receive payment on any invoices submitted under this Agreement unless or until it complies with the State Comptroller's electronic payment procedures.
- I. LAW FIRM shall not be reimbursed for the preparation of invoices or billing statements or for time spent correcting any errors in previously submitted invoices or billing statements.

IV. RELATIONSHIP OF PARTIES

- A. The relationship of the CONTRACTOR, including any subcontracted attorneys, to the CHAMBER shall be that of an attorney and client. Nothing herein shall be construed as limiting or amending the attorney-client privileges afforded by law.
- B. The CONTRACTOR is and shall be, in all respects, an independent contractor in performing services pursuant to this AGREEMENT. In accordance with such status as an independent contractor, the CONTRACTOR covenants and agrees to act consistently with such status: to neither hold itself out as, nor claim to be, an officer or employee of the CHAMBER or the STATE by reason hereof; and not to, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the CHAMBER or the STATE, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership credit.

V. STAFF

- A. LAW FIRM shall assign Paul Fishman as the lead partner for its duties hereunder. LAW FIRM may not make changes to the lead engagement partner without the CHAMBER's prior approval.
- B. The CONTRACTOR specifically represents and agrees that its members, officers, employees, and shareholders, have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder. All employees of the CONTRACTOR, who shall perform Services under this AGREEMENT, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Services under this AGREEMENT on behalf of CONTRACTOR shall, in performing the Services, comply with all applicable Federal and State laws concerning employment in the United States.
- C. The CONTRACTOR may arrange for a portion/s of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible subcontractors, subject to approval of the CHAMBER. If the CONTRACTOR determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONTRACTOR to the CHAMBER. The CONTRACTOR retains ultimate responsibility for all services performed by CONTRACTOR under the AGREEMENT.
- D. The CONTRACTOR shall be fully responsible for performance of work by its staff. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

VI. CHAMBER REPRESENTATIVES

- A. All Notices under this AGREEMENT shall be directed to the representatives identified in this Section, or their designees.

- B. Such representatives shall request, oversee, supervise and accept performance of services provided by the CONTRACTOR and shall receive any required submissions. Whenever an action is to be taken or approval for services given by the CHAMBER, such action or approval may be given only by the representatives designated pursuant to this Section.
- C. The CHAMBER, with the commencement of this AGREEMENT, designates as its representative, Elizabeth Fine, or her designee(s). The CHAMBER may, on written notice, designate other individuals as its representatives.

VII. CONFLICTS OF INTEREST

- A. LAW FIRM hereby represents that there is not any actual or potential conflict of interest that could prevent the firm's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. LAW FIRM shall, to the extent permitted by applicable rules of professional conduct, notify the CHAMBER promptly of any actual or potential conflicts of interest in all that it does to serve the purpose of this AGREEMENT and its intent. As used in this AGREEMENT, the phrase "actual or potential conflict of interest" is intended to mean an ethical conflict of interest under applicable rules of professional conduct that either exists or is reasonably foreseeable by LAW FIRM.
- B. LAW FIRM warrants that it has performed a conflicts check and has determined that it may, under applicable rules of professional conduct, perform the anticipated services. It further warrants that it is not involved in any litigation or administrative proceeding(s) to which it is a party that would either: 1) materially impair its ability to perform the services outlined herein or 2) materially and adversely affect its financial ability to perform the services outlined herein if decided in an adverse manner. LAW FIRM may represent a client with interests adverse to the CHAMBER in any matter that is not substantially related to the matters on which LAW FIRM has been retained by the CHAMBER; provided that LAW FIRM agrees that it will, to the extent permitted by applicable rules of professional conduct, give notice to the CHAMBER upon undertaking a representation of any client where the matter is not so substantially related but the interests of that client in the matter are directly adverse to the CHAMBER. LAW FIRM shall, to the extent permitted by applicable rules of professional conduct, promptly notify the CHAMBER and obtain the CHAMBER's informed consent before undertaking a representation of any new client where the interests of that client in the matter are directly adverse to the CHAMBER and such matter is substantially related to a matter on which LAW FIRM has been retained by the CHAMBER.

VIII. WARRANTIES

- A. The CONTRACTOR warrants that it will perform services in good faith and in a workmanlike and professional manner in accordance with the applicable professional standards. The warranties expressly set forth in this AGREEMENT are in lieu of all other warranties, expressed or implied including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

- B. The CONTRACTOR warrants that its services shall be performed in accordance with applicable professional standards and that the CONTRACTOR shall correct, at no charge to the CHAMBER or the STATE, services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work.

IX. INDEMNIFICATION AND LIABILITY

The CONTRACTOR shall be fully liable, to the extent imposed by applicable law, for all damages and other losses to the CHAMBER that are proximately caused by misconduct or negligence of the CONTRACTOR in connection with the CONTRACTOR's performance of this AGREEMENT; provided, however, that the CONTRACTOR shall not be so liable to the CHAMBER for that portion of any such loss or damage arising hereunder due to the negligent act or failure to act by the CHAMBER, the STATE or the acts of third parties.

X. TERMINATION

- A. The CHAMBER reserves the right to terminate the services of the CONTRACTOR, in whole or in part, upon thirty (30) days written notice for any reason, or immediately for cause. Upon notice of termination, the CONTRACTOR shall stop work immediately and complete only those specific assignments, if any, subsequently approved by the CHAMBER. In the event of termination other than for cause, the CONTRACTOR shall be entitled to compensation for services performed through the date of termination that are accepted by the CHAMBER, and for any subsequent services that are accepted by the CHAMBER, rendered in connection with any successor consultants and contractors, including transfer of records, briefing and any other services deemed necessary or desirable by the CHAMBER. The CONTRACTOR agrees to cooperate to the fullest respect with any successor consultants and contractors.
- B. If the Termination for cause results from unsatisfactory performance by the CONTRACTOR, the value of the work performed by the CONTRACTOR prior to termination shall be established by the CHAMBER.
- C. In addition, non-compliance with the procurement laws as noted in Section XI of this AGREEMENT will lead to contract termination.
- D. In the unlikely event that circumstances make it necessary to do so, the CONTRACTOR, with the mutual consent of the CHAMBER, may withdraw from this AGREEMENT for nonpayment of fees or for any other reason authorized or required by the applicable Rules of Professional Conduct.

XI. COMPLIANCE WITH PROCUREMENT LAWS

- A. By execution of this AGREEMENT, the CONTRACTOR certifies that information provided to the STATE with respect to the Vendor Responsibility Questionnaire, Procurement Lobbying Certifications, Contractor Disclosure Form A and Section 5-a of the Tax Law (Forms ST-220-TD and ST-220-CA) is complete, true and accurate.

- B. The CONTRACTOR hereby acknowledges that the Vendor Responsibility Questionnaire and certification are made part of its proposal and thereby this AGREEMENT and that any misrepresentation of fact in the Questionnaire and attachments, or in any CONTRACTOR responsibility information that may be requested by the CHAMBER, may result in termination of this AGREEMENT.

The CONTRACTOR shall at all times during the contract term remain responsible. During the term of this AGREEMENT, any changes in the provided Questionnaire shall be disclosed to the CHAMBER, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of this AGREEMENT. Furthermore, the CONTRACTOR agrees, if requested by the CHAMBER, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity.

The CHAMBER, in its sole discretion, reserves the right to suspend any or all activities under this AGREEMENT, at any time, when it discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the CHAMBER issues a written notice authorizing a resumption of performance under this AGREEMENT.

Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard by the appropriate CHAMBER officials or staff, this AGREEMENT may be terminated by the CHAMBER at the CONTRACTOR's expense where the CONTRACTOR is determined by the CHAMBER to be non-responsible. In such event, the CHAMBER may complete contractual requirements in any manner it deems advisable and pursue available legal or equitable remedies for breach.

- C. CONTRACTOR hereby acknowledges that State Finance Law Section 163(4)(g) imposes certain reporting requirements on the contractor doing business with the STATE. In furtherance of these reporting requirements, the CONTRACTOR agrees to complete and submit an initial planned employment data report and an annual employment report (Forms A and B respectively). Complete instructions and forms may also be accessed at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/18/C.htm>.

XII. REQUIREMENTS AND PROCEDURES FOR M/WBE PARTICIPATION

A. General Provisions

1. The CHAMBER is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all STATE contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

2. The CONTRACTOR agrees, in addition to any other nondiscrimination provision of the AGREEMENT and at no additional cost to the CHAMBER, to fully comply and cooperate with the CHAMBER in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority- and women-owned business enterprises ("MWBE"). The CONTRACTOR's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.
3. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract.

B. Contract Goals

Pursuant to 5 NYCRR Section 142.2, the CHAMBER has determined that MWBE Contract Goals are not practical, feasible or appropriate for the services required under this AGREEMENT. As such, there are no MWBE subcontracting goals for this AGREEMENT. Notwithstanding the preceding, CONTRACTOR is still responsible to meet all requirements of the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145.

C. Equal Employment Opportunity (EEO)

1. The CONTRACTOR agrees to be bound by the provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the AGREEMENT.
2. In performing the AGREEMENT, the CONTRACTOR shall:
 - a. Ensure that the CONTRACTOR performing work on this AGREEMENT shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - b. The CONTRACTOR shall submit an EEO policy statement to the CHAMBER within seventy-two (72) hours after the date of the notice by the CHAMBER to award the AGREEMENT to the CONTRACTOR.
 - c. If the CONTRACTOR, or any of its subcontractors, does not have an existing EEO policy statement, the CHAMBER may require the CONTRACTOR or subcontractor to adopt a model statement.
 - d. The CONTRACTOR's EEO policy statement shall include the following language:

- 1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- 2) The CONTRACTOR shall state in all solicitations or advertisements for employees that, in the performance of the AGREEMENT, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- 3) The CONTRACTOR shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the CONTRACTOR's obligations herein.
- 4) The CONTRACTOR will include the provisions of subsection XXIV.C.2.d Paragraphs 1) through 3) and subsection XXIV.C.4, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the AGREEMENT.

3. Staffing Plan

To ensure compliance with this section, the CONTRACTOR shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the AGREEMENT by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The CONTRACTOR shall complete the staffing plan form and submit it within a reasonable time, as directed by the CHAMBER.

4. Workforce Employment Utilization Report ("Workforce Report")

- a. The CONTRACTOR shall submit a Workforce Report, and shall require each of its subcontractors to submit a Workforce Report, in such form as shall be required by the CHAMBER on a QUARTERLY basis during the term of the AGREEMENT.
- b. Separate forms shall be completed by the CONTRACTOR and any subcontractors.
- c. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

5. The CONTRACTOR shall comply with the provisions of the Human Rights Law, and all other STATE and Federal statutory and constitutional non-discrimination provisions. The CONTRACTOR and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

XIII. PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. The CHAMBER recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of CHAMBER contracts. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, CONTRACTORS are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the AGREEMENT. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the CHAMBER conducted a comprehensive search and determined that the AGREEMENT does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to the CONTRACTOR. Nevertheless, CONTRACTOR is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the AGREEMENT for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>

CONTRACTOR is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

XIV. CONDITIONS PRECEDENT

This AGREEMENT and any subsequent amendments to this AGREEMENT shall not be deemed executed, valid or binding unless and until approved in writing by the Office of the State Comptroller.

XV. CONFIDENTIALITY

- A. CONTRACTOR agrees that it will not use confidential or proprietary information disclosed to CONTRACTOR in connection with the services ("Confidential Information") for any purpose other than in connection with the services. The CONTRACTOR is fully responsible for its staff, its subcontractor(s) and any subcontractor's staff with regard to Confidential Information.

- B. Information which falls into any of the following categories shall not be considered Confidential Information:
1. information that is previously rightfully known to the CONTRACTOR without restriction on disclosure;
 2. information that becomes, from no breach of this AGREEMENT on the part of the CONTRACTOR, generally known in the relevant industry, or is otherwise publicly available; and
 3. information that is independently developed by CONTRACTOR without use of the confidential information.
- C. Except as specifically permitted in this AGREEMENT, CONTRACTOR shall not, at any time, in any fashion, form or manner, divulge, disclose, communicate or use, any Confidential Information other than in connection with the services or as otherwise provided herein.
- D. CONTRACTOR may disclose Confidential Information if such information is required to be disclosed by CONTRACTOR by any law, rule, regulation, judicial or administrative process or applicable professional standards, provided that, to the extent permitted by applicable law or regulation, the CONTRACTOR notifies the CHAMBER prior to any such required disclosure.
- E. CONTRACTOR agrees not to issue any press releases, give or make any presentations, or give to any print, electronic or other news media information regarding the services without the express advance written approval of CHAMBER.
- F. CONTRACTOR agrees that, as between the PARTIES, all Confidential Information in its possession is at all times the sole property of the CHAMBER.
- G. Notwithstanding anything herein to the contrary, CONTRACTOR shall have the right to retain one copy of the Confidential Information and any summaries, analyses, notes or extracts prepared by CONTRACTOR which are based on or contain portions of the Confidential Information evidencing its services for the CHAMBER as required by law, regulation, professional standards or reasonable business practice.
- H. CONTRACTOR shall retain all Confidential Information in confidence, exercising the same standard of care used by CONTRACTOR to protect its own confidential and proprietary information, to prevent the disclosure of Confidential Information to any third party. CONTRACTOR shall not use Confidential Information for any purpose other than in furtherance of its professional services for the CHAMBER.
- I. CONTRACTOR understands that if it breaches, or threatens to breach this AGREEMENT, the CHAMBER shall have the right to seek all equitable and legal rights (including the right to seek injunctive relief) to prevent such breach and/or to be fully compensated (including reasonable legal fees) for losses or damages resulting from such breach. CONTRACTOR acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit

any breach of confidentiality may be the only viable remedy to fully protect the confidential or proprietary information identified in this AGREEMENT.

XVI. ENTIRE AGREEMENT AND INTERPRETATION

- A. This AGREEMENT and Appendix A (Standard Clauses for New York State Contracts) constitute the entire AGREEMENT between the parties hereto, and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid.
- B. This AGREEMENT shall not be changed, modified or altered in any manner except by an instrument in writing executed by both PARTIES.
- C. In the event of any discrepancy, disagreement, or ambiguity, the terms of Appendix A (Standard Clauses for New York State Contracts) shall be given preference.

XVII. REQUIRED OUTSIDE COUNSEL PROVISIONS

- A. Opinions prepared by retained attorneys or law firms construing the statutes or Constitution of the State of New York do not constitute the opinion of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Appeals and Opinions Bureau, Department of Law, State Capitol, Albany, New York.
- B. The retained attorney or law firm will represent the State of New York in judicial litigation related to the services to be provided under this AGREEMENT only when such services are specifically requested by the CHAMBER's counsel and approved by the Attorney General. Such approval must be requested separately for each matter to be litigated and must be received prior to the commencement of services therefor.

XVIII. SEVERABILITY

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, but shall remain binding and effective as against all parties hereto.

C000254

IN WITNESS WHEREOF, each of the PARTIES hereto has caused this AGREEMENT to be executed by its duly authorized officers on the day and year stated below.

Agency Certification

In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

Approved by:

ARNOLD & PORTER KAYE
SCHOLER LLP

By: _____

Name: Paul J. Fishman

Title: Partner

Date: 11/1/21

NEW YORK STATE
EXECUTIVE CHAMBER

By: _____

Name: Elizabeth Fine

Title: Counsel to the Governor

Date: 11/5/2021

State Comptroller:
THOMAS P. DINAPOLI

By: _____

Date: _____

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| APPROVED DEPT. OF AUDIT & CONTROL Nov 30 2021 Brian Fuller FOR THE STATE COMPTROLLER |
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CORPORATE ACKNOWLEDGMENT FORM

The acknowledgment must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and that all information provided is complete, true and accurate. Also, the contractor affirms that it understands and agrees to comply with the procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

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| <p align="center">INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT</p> | |
| STATE OF <u>NEW JERSEY</u> | } SS.: |
| COUNTY OF <u>ESSEX</u> | |
| <p>On the <u>1ST</u> day of <u>NOVEMBER</u> in the year 20<u>21</u>, before me personally appeared <u>PAUL J. FISHER</u>, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me, did depose and say that he resides at <u>[REDACTED]</u>; and</p> | |
| <p>[Check One]</p> <p><input type="checkbox"/> If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.</p> <p><input type="checkbox"/> If a corporation): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.</p> <p><input checked="" type="checkbox"/> If a partnership): he is the Partner _____ of _____ Arnold & Porter Kaye Scholer LLP, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.</p> <p><input type="checkbox"/> If a limited liability company): he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.</p> | |
| <p>Notary Public Registration No. <u>50092405</u></p> | <p align="center"> SILVIA P FALCONI Notary Public State of New Jersey My Commission Expires Oct. 17, 2023 I.D.# 50092405 </p> <p>State of: <u>NEW JERSEY</u></p> |