

**State of Connecticut
Office of the Attorney General**

**First Addendum to
RFP #2022-06**

Request for Proposals for Services

**(Legal Representation of the State of Connecticut Judicial Branch in an
Intellectual Property Matter Currently in Litigation)**

December 27, 2022

The Office of the Attorney General has received the following questions concerning **RFP #2022-06**. The questions, along with the responses of the Office of the Attorney General, are as follows:

Question 1: The selection criteria indicates that bidding firms will be evaluated based on, among other things, results of reference checking. However, under III (e) Information Required in the Proposal in the instructions to Proposers, there are no instructions on including references. Should bidders include references, and if so, how many?

Answer: Bidding firms should include a minimum of three (3) references in their proposal. The references should correspond to the specific legal experience outlined in the RFP.

ATTORNEY GENERAL STATE OF CONNECTICUT

Request for Proposals for Services

RFP # 2022-06

**(Legal representation of the State of
Connecticut, Judicial Branch in an Intellectual
Property Matter Currently in Litigation)**

The State of Connecticut, Office of the Attorney General, is seeking proposals to provide certain legal services involving representation of the State of Connecticut, Judicial Branch in an intellectual property matter presently before the Claims Commissioner, *Pavonix, Inc. f/k/a Softscape, Inc. v. State of Connecticut, Judicial Branch, File No. 21238*. **PROPOSALS ARE DUE BY January 9, 2023, at 4:30 p.m., Eastern Time (ET), as detailed in the Request for Proposals.**

This Request for Proposals is available online at <https://portal.ct.gov/AG/RFPs>.

WILLIAM TONG, Attorney General

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**REQUEST FOR PROPOSALS
BY
THE STATE OF CONNECTICUT
OFFICE OF THE ATTORNEY GENERAL**

**Legal representation of the State of Connecticut, Judicial Branch in an Intellectual
Property Matter Currently in Litigation**

RFP# 2022-06

The State of Connecticut, Office of the Attorney General (“OAG”) is seeking proposals to provide certain legal services for the State of Connecticut, Judicial Branch (the “Judicial Branch”) in an intellectual property matter currently in litigation.

SCOPE OF SERVICES

The Attorney General of Connecticut, pursuant to Conn. Gen. Stat. § 3-125, invites proposals from appropriately qualified firms to serve as outside counsel and provide legal services to the Judicial Branch. The scope of the legal services (the “Services”) to be provided include, without limitation, the following:

- (1) Representation of and legal counseling to the Judicial Branch concerning a matter presently before the Claims Commissioner, *Softscape, Inc. v. State of Connecticut, Judicial Branch, File No. 21238*, as well as in any subsequent litigation that may arise out of the Claims Commissioner proceeding. A copy of the operative complaint may be found in Appendix B.
- (2) Review, analysis, investigation, and research necessary to carry out the Services with respect to the above pending litigation, as well as any subsequent litigation that may arise out of the Claims Commissioner proceeding.
- (3) Preparing, writing, and providing to the ATTORNEY GENERAL or his designee all documents and instruments, in electronic, magnetic, paper and any other form, which are necessary or appropriate to carry out said Services.
- (4) Negotiating and/or engaging in mediation, with the prior written approval of the ATTORNEY GENERAL, with any parties as necessary to carry out the Services.
- (5) Making all court and agency appearances and filings and representing the State in all related actions, pending or threatened, suits, claims, investigations, legal, administrative, mediation, arbitration proceedings, and whether at law or in equity, in any forum (collectively “Actions”) as determined in advance in writing by the ATTORNEY GENERAL or his designees to be necessary and appropriate.

- (6) Review, analysis, investigation and research necessary to carry out the Services;
- (7) Providing all necessary expert, technical, paralegal, clerical, document retrieval and analysis and other litigation support, including ability to use discovery management, litigation management or trial management software or information technology that is necessary;
- (8) Providing staff, equipment, and expertise to minimize the administrative burdens imposed on state employees, officials, and agencies in the course of rendering the Services;
- (9) Hiring and consulting with subcontractors, including expert witnesses, consultants, mediators and investigators, as may be necessary and as approved in writing in advance by the ATTORNEY GENERAL subject to the following requirements and limitations:
 - (A) Terms of subcontracts over five thousand dollars (\$5000.00) must be approved in writing and in advance by the ATTORNEY GENERAL. In requesting approval, the firm must include the following information:
 - (i) Why it is necessary to hire a subcontractor,
 - (ii) How the proposed subcontractor was selected,
 - (iii) Proposed rates and reimbursements for the subcontractor, and
 - (iv) Comparison of these rates to those of other qualified Subcontractors,
 - (B) Subcontracts or agreements must include terms which are substantially similar to the billing terms in the Compensation and Reimbursement Section of this Agreement; and
 - (C) The firm's bills for subcontracted work must include full detailed itemizations of all fees and expenses for the subcontracted work, with appropriate supporting documentation;
- (10) Performing all tasks under this Agreement in coordination with the Judicial Branch and ATTORNEY GENERAL; and
- (11) Providing all necessary paralegal and clerical to carry out said Services.

TERM AND AMOUNT OF CONTRACT

Contracts awarded pursuant to this RFP will have an initial term of up to five (5) years, with an option, by mutual consent, for an additional two (2) years for a total of seven (7) years unless otherwise amended. The total maximum value of the contracts awarded pursuant to this RFP will be two hundred fifty thousand dollars (\$250,000). Any extensions will be only by written amendment to the Professional Services Agreement (hereinafter referred to as "Contract" or "Agreement"). These awards are not necessarily exclusive.

The OAG reserves the right during the terms of these contracts to solicit and request additional proposals for legal services in the same or other areas of practice.

Proposals must be received by the OAG by 4:30 p.m., Eastern Time (ET), on **January 9, 2023**. The OAG may choose to invite firms to attend an interview shortly thereafter.

An evaluation committee will evaluate the proposals in accordance with the selection criteria set forth in this RFP, which explains other terms and requirements. The selected firm(s) must enter into a contract with the OAG, substantially in the form of the draft contract set out in Appendix A. The OAG encourages minority, women, and veteran-owned firms to apply.

All communication with the OAG must be undertaken only as specified in this RFP.

SELECTION CRITERIA

The evaluation committee will evaluate firms on the basis of their written responses to this RFP, additional written information that may be requested by the OAG and, possibly, oral interviews. The goal of the evaluation will be to select the firm or firms which provide(s) the best combination of qualifications, relevant experience and cost.

The evaluation committee will consider the following non-exclusive factors in making its determination:

- Membership in the American and Connecticut Intellectual Property Law Associations;
- Depth and quality of experience in serving as litigation counsel on intellectual property and trade secret cases, including cases concerning disputes over software and program design and the use of source code in such design;
- Depth and quality of experience with contract litigation;
- Demonstrated familiarity with state administrative and court procedures and rules of practice
- Qualifications of personnel, including the experience and availability of the lead attorney(s) and the breadth and depth of other partners, associates and other professionals available to provide services to the State
- Demonstrated ability to work closely and cooperatively with clients in meetings and negotiation sessions
- Sufficient depth of qualified professional and support staff to be able to accept an unpredictable flow of assignments and complete them in a timely manner

- Results of reference checking
- Equal employment opportunity record as evidenced by the composition of firm personnel and the firm's affirmative action and equal employment opportunity policies and practices
- Workforce diversity, as evidenced by the contractor's current workforce diversity and its explanation of its current diversity and any plans or efforts it describes to improve or broaden its diversity
- Record of compliance with all applicable ethical rules and rules of professional conduct
- The firm's financial resources and commitment to carry out this undertaking, including any litigation which may result, and all associated fees, costs and expenses, to a successful completion
- Ability to fully participate in all necessary discovery and litigation tasks
- Demonstrated ability to work closely and cooperatively with clients in meetings and negotiation sessions
- Team organization and approach, including the ability of the firm or firms to adequately staff and promptly and vigorously pursue the litigation to conclusion
- Ability and commitment to minimize the administrative burdens imposed on State employees, officials and agencies in this undertaking, specifically including any litigation that may result
- Reasonableness of proposed rates and method of compensation and demonstrated efficiency in providing sound advice and counsel without unnecessary or excessive charges and demonstrated ability to reduce fees and billed time through efficient and effective methods and practices. Among substantially equally qualified proposers, rates and efficiency will weigh heavily in making a selection
- Demonstrated successful utilization of legal research services, document management systems, cybersecurity technology and best practices, and other information technology services and products.

The proposing firm will not be considered to have an irreconcilable conflict of interest because the firm or attorneys associated with the firm have in the past brought or are currently bringing litigation against the State of Connecticut, whether in court, mediation or arbitration, so long as that litigation does not concern the firm's involvement in matters

related to and adverse to the State related to any of the described services sought in this RFP. However, all potential conflicts with the State of Connecticut must be fully described and discussed in the proposal.

INSTRUCTIONS TO PROPOSERS

I. Proposals Schedule

Release of RFP: **December 5, 2022** Proposals due: **January 9, 2023**

From the date the OAG issues this RFP until the date that it awards the contract(s) to the successful proposer, interested parties should not contact any employee of the State of Connecticut for additional information concerning this RFP, except in writing directed only to Eileen Meskill, Associate Attorney General, and Nicole Hart, Paralegal Specialist, via email at eileen.meskill@ct.gov nicole.hart@ct.gov. Interested parties should submit questions no later than **December 16, 2022**. Answers will be posted by **December 23, 2022**. Late questions may not receive answers. The OAG will answer questions only in the form of one or more addenda to this RFP posted on its website, at <https://portal.ct.gov/AG/RFPs>. Proposers have the responsibility to review that location for any addenda to this RFP.

For technical questions only, concerning issues or problems with access to or downloading of this RFP and associated information from the website, proposers may contact Muhannad Alsaqri, OAG IT Manager, by e-mail at Muhannad.Alsaqri@ct.gov.

II. Proposals

Proposers must submit a copy of their proposal electronically to person(s) below, arriving no later than January 9, 2023, at 4:30 p.m. Eastern Time (ET). Proposals received after that time may not be accepted. All proposals and other communications with the State regarding this RFP must be submitted in writing and must clearly identify this RFP.

Email to: Eileen Meskill, Associate Attorney General eileen.meskill@ct.gov

With a copy to: Nicole Hart, Paralegal Specialist nicole.hart@ct.gov. Subject: Proposal to RFP # 2022-06, Legal representation of the Judicial Branch

III. Submission of Proposals

(a) To be considered, all submissions must include the following:

- (1) All information and documents requested by the RFP;
- (2) A statement affirming specifically all representations and warranties set forth in Section XII (Independent Price Determinations) and Section XIII (Offer of Gratuities), below;
- (3) All documents must be submitted in a format compatible with Microsoft Word, current version, and affording the user the capability of searching its contents; except that the signature pages and required or necessary forms not conveniently available in Microsoft Word may be provided in PDF format;
 - (A) Proposal submissions of less than 35MB must be submitted by email to eileen.meskill@ct.gov and to nicole.hart@ct.gov. Proposals larger than 35 MB must be submitted in separate parts each smaller than 35 MB.
- (4) Confirmation that an account has been created in the Connecticut Department of Administrative Services (“DAS”) CTsource (formerly BizNet) system showing that all required forms have been completed and uploaded. The required forms may include, but may not be limited to: Ethic Affidavits and Certifications Form 1 (Gift and Campaign Contribution); Form 5 (Consulting Agreement); Form 6 (Affirmation of Receipt of State Ethics Laws Summary); and Form 7 (Iran Certification); Commission on Human Rights & Opportunities’ Nondiscrimination Certification *and Workplace Analysis Affirmative Action Report/ Employment Information* Forms. **These documents are included in your CTsource account as fillable forms.** Copies of these completed forms do not need to be submitted with your proposal. Any proposer that does not make the certifications required may be disqualified.

Information regarding the CTsource system and required documents can be found on DAS’s website at

<https://portal.ct.gov/DAS/CTSource/CTSource>

<https://portal.ct.gov/DAS/CTSource/Registration>

<https://portal.ct.gov/DAS/CTSource/CTsource-Resources>

Questions re CTsource contact

Department of Administrative Services, Procurement Division
860-713-5095 das.ctsource@ct.gov

For assistance with your CTsource account:

1-866-889-8533 webprocure-support@proactis.com

- (b) Concise answers are encouraged. Responses should be prepared on 8.5 x 11 inch paper using at least 12 point type with standard margins.
- (c) The submission of proposals shall constitute, without any further act required of the proposers, the Judicial Branch or the OAG, acceptance of the requirements, administrative stipulations and all of the terms and conditions of this RFP. Proposals must reflect compliance with such requirements. Failure of the proposal to so comply may result in the OAG's rejection of the proposal. The OAG will reject any proposal that deviates materially from the specifications, terms or conditions of this RFP. Proposers submitting proposals with any minor or immaterial deviations must identify and fully justify such deviations in order for the OAG to consider their proposal.
- (d) No additions or changes to any proposal will be allowed after the proposal due date, unless the OAG specifically requests such modification. The OAG may, at his option, seek proposer retraction and/or clarification of any discrepancy or contradiction found during the review of proposals.
- (e) Information Required in the Proposal:
 - (1) Name the primary individuals who would work with the State, and explain their experience, relevant background and anticipated duties. Include brief resumes for each.
 - (2) Explain the firm's qualifications in light of the stated criteria detailed above.
 - (3) Disclose any past or present assignments, relationships or other employment that your firm or any employee of your firm has or has had that may create a conflict of interest or the appearance of a conflict of interest in serving as counsel for the State in this matter.
 - (4) If you find any term or provision of the proposed draft contract in Appendix A unacceptable, identify the term, explain why it is unacceptable, and state whether failure to modify this term would result in your firm's failure to execute a contract in this matter.
 - (5) Discuss any pending complaints or investigations, or any made or concluded within the past five (5) years, to or by any regulatory body or court regarding the conduct of your firm or its predecessors, or any of its present or former attorneys or employees.
 - (6) State whether your firm owns or operates, or participates in the ownership or operation of, any business entity, affiliate, subsidiary or the like which provides lobbying or any other products or services. If

so, state whether that related business entity is a vendor to UConn or has the potential to become a vendor and explain.

(7) Fees. Include a detailed and specific fee proposal. You must include a fee proposal with specific hourly rates both for the specific personnel and for each category of person who will work on the assignment (excluding clerical staff, whose time may not be billed). Firms responding to this RFP should be aware that the draft contract does not permit reimbursement of any overhead-related expenses including, but not limited to, photocopying, secretarial work, facsimiles, clerical staff, library staff, proofreading, elementary legal research, meals or in-state transportation or other costs.

(f) Conformity and Completeness of Proposals. To be considered acceptable, proposals must be complete and conform to all material RFP instructions and conditions. The OAG, in its sole discretion, may reject in whole or in part any proposal if in its judgment the best interests of the State will be served.

IV. Amendment or Cancellation of this RFP

The OAG reserves the right to cancel, amend, modify or otherwise change this RFP at any time if it deems it to be in the best interest of the State to do so.

V. Presentation of Supporting Evidence

Proposers must be prepared to provide evidence of experience, performance, ability, financial resources or other factors as the OAG deems to be necessary or appropriate concerning the performance capabilities represented in their proposals.

VI. Misrepresentation or Default

The OAG may reject the proposal and void any award resulting from this RFP to a firm which makes any material misrepresentation in its proposal or other submittal in connection with this RFP.

VII. Errors

(a) The OAG reserves the right to correct clerical or administrative errors that may be made during the evaluation of proposals or during the negotiation of the contract and to change the contract award accordingly. In addition, the OAG reserves the right to re-evaluate proposals and the award of the contract in light of information either not previously known or otherwise not properly having been taken into account prior to contract award. In any case, this may include, in extreme circumstances, revoking the awarding of

the contract already made to a firm and subsequently awarding the contract to another firm.

- (b) Such action on the part of the OAG shall not constitute a breach of contract on the part of the OAG since the contract with the initial firm would be deemed void and of no effect as if no contract ever existed between the OAG and such firm.
- (c) The OAG may waive minor irregularities found in proposals or allow the proposer to correct them, depending on which is in the best interest of the state. "Minor irregularities" means typographical errors, informalities that are matters of form rather than substance and evident from the proposal itself, and insignificant mistakes that can be waived or corrected without prejudice to other proposers, as determined in the discretion of the OAG.

VII. Ownership of Proposals

All proposals shall become the sole property of the State and will not be returned.

VII. Execution of Contract

- (a) This RFP is not a contract and, alone, shall not be interpreted as such. Rather, this RFP only serves as the instrument through which proposals will be solicited. Once the evaluation of the proposals is complete and a firm or firms are selected, the selected proposal and this RFP may then serve as the basis for the Contract(s) that will be negotiated and executed between the OAG and the selected firm(s). If the OAG and the initial selected firm(s) fail to reach agreement on all issues relative to the Contract within a time determined solely by the OAG, then the OAG may commence and conclude contract negotiations with other proposers. The OAG may decide at any time to postpone or restart this RFP process.
- (b) Section 4-252 of the Connecticut General Statutes requires that this RFP include a notice of the certification requirements for large state contracts described in this statute. Accordingly, pursuant to this statute, firms are notified as follows:
 - (1) The terms "gift," "quasi-public agency," "state agency," "large state contract," "principals and key personnel" and "participated substantially" as used in this Section X(b) shall have the meanings set forth in this statute.
 - (2) No state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains the written certifications described in this Section X(b). Each such certification shall be sworn as true to the best knowledge and belief

of the person signing the certification, subject to the penalties of false statement.

- (3) The official of the person, firm or corporation awarded the contract, who is authorized to execute the contract, shall certify on such forms as the State shall provide:
 - (A) That no gifts were made between the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement covered by the contract and the date of execution of the contract, by (i) such person, firm, corporation, (ii) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (iii) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal or the negotiation of the contract, to (I) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (II) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency;
 - (B) That no such principals and key personnel of the person, firm or corporation, or agent of such person, firm or corporation or principals and key personnel, knows of any action by the person, firm or corporation to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee; and
 - (C) That the person, firm or corporation made the bid or proposal without fraud or collusion with any person.
- (4) Contractors are required to submit a certification form and thereafter annually to update previously submitted certification forms for state contracts. Contractors must use the most current Gift and Campaign Contribution Certification form. (See Section III(4))
- (5) This Section X(b) is set forth here only for purposes of providing notice of the requirements of Conn. Gen. Stat. § 4-252. Accordingly,

it is neither intended nor should it be interpreted or relied upon to be a complete and full reiteration of the statute's contents. Any interpretation or understanding of the statute's requirements or content by any party must come only from reading the full text of the statute itself.

- (c) Section 4a-81 of the Connecticut General Statutes requires that this RFP include a notice of the consulting affidavit requirements described in the statute. Accordingly, pursuant to the statute, vendors are notified as follows:
- (1) No state agency shall execute a contract for the purchase of goods or services, which contract has a total value to the state of fifty thousand dollars or more in any calendar or fiscal year, unless the state agency obtains the written affidavit described in subsection (2) of this section.
 - (2) The chief official of the vendor awarded a contract described in Section X(c)(1) or the individual awarded such contract who is authorized to execute such contract, shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with such contract. Such affidavit shall be required if any duties of the consultant included communications concerning business of such state agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (i) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (ii) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction or requests for information or (iii) any other similar activity related to such contract. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the Connecticut General Statutes concerning the State's Codes of Ethics, as of the date such affidavit is submitted.
 - (3) Such affidavit shall be sworn as true to the best knowledge and belief of the person signing the certification on the affidavit and shall be subject to the penalties of false statement.
 - (4) Such affidavit shall include the name of the consultant, the consultant's firm, the basic terms of the consulting agreement, a brief description of the services provided, and an indication as to whether

the consultant is a former state employee or public official. If the consultant is a former state employee or public official, such affidavit shall indicate his or her former agency and the date such employment terminated.

- (5) The Connecticut Office of Policy and Management has provided OPM Ethics Form 5 to satisfy the requirements of this statute. (See Section III(4) above.)
- (6) This Section X(c) is set forth here only for purposes of providing notice of the requirements of the Conn. Gen. Stat. § 4a-81. Accordingly, it is neither intended nor should it be interpreted or relied upon to be a complete and full reiteration of the statute's contents. Any interpretation or understanding of the statute's requirements or content by any party must come only from reading the full text of the statute itself.
- (d) Pursuant to Conn. Gen. Stat. §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, every contractor is required to provide the State with documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the contractor's nondiscrimination agreements and warranties which are included in such contractor's contract pursuant to said statutes. The applicable certification form must be completed and submitted through the BizNet system, as explained in Section III(4), above.
- (e) In addition, an **IRS W-9** and **State of Connecticut Agency Vendor** forms must be completed and attached to the proposal. Copies of previously submitted IRS W-9 and/or Agency Vendor forms may be resubmitted if the information contained on the forms is still current.

The *Agency Vendor Form* can be found:

[http://www.das.state.ct.us/Purchase/Info/Vendor_Profile_Form_\(SP-26NB\).pdf](http://www.das.state.ct.us/Purchase/Info/Vendor_Profile_Form_(SP-26NB).pdf)

and W-9: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

XI. Oral Agreement or Arrangements

Any alleged oral agreements or arrangements made by firms with any State agency or employee will be disregarded in any State proposal evaluation or associated award.

XII. Independent Price Determinations

In the proposals, firms must warrant, represent, and certify that the following requirements have been met in connection with this RFP:

- (a) The fees and costs proposed have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such process with any other organization or with any competitor.
- (b) Unless otherwise required by law, the fees and costs quoted have not been knowingly disclosed by the firm prior to the deadline for submission of proposals directly or indirectly to any other organization or to any competitor; and
- (c) No attempt has been made, or will be made, by the firm to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

XIII. Offer of Gratuities

In the proposals, firms must represent that no elected or appointed official or employee of the State of Connecticut has, or will, benefit financially or materially from the Contract. The Contract may be terminated by the OAG if it is determined that gratuities of any kind were either offered to, or received by, any of state officials or employees from the firm, the law firm's agent(s), representatives(s) or employees(s). Such action on the part of the OAG shall not constitute a breach of contract on the part of the OAG.

XIV. Subletting or Assigning of Contract

The Contract or any portion thereof, or the work provided for therein, or the right, title, or interest of the firm therein or thereto may not be sublet, sold, transferred, assigned or otherwise disposed of to any person or entity without the prior written consent of the OAG. No person or entity, other than the firm to which the contract was awarded, is permitted to perform work pursuant to the Contract without the prior written approval of the OAG.

XV. Freedom of Information

The OAG is a public agency and its records, including responses to this RFP, are public records. See Conn. Gen. Stat. §§ 1-200, et seq., and especially § 1-210(b)(4) and § 1-210(b)(5)(B). Due regard will be given for the protection of proprietary or confidential information contained in all proposals received. However, all materials associated with this RFP are subject to the terms of the

Connecticut Freedom of Information Act (“FOIA”) and all applicable rules, regulations and administrative decisions. If a firm is interested in preserving the confidentiality of any part of its proposal, it will not be sufficient merely to state generally in the proposal that the proposal is proprietary or confidential in nature and not, therefore, subject to release to third parties. Instead, those particular sentences, paragraphs, pages or sections that a firm believes to be exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with § 1-210(b) of the FOIA must accompany the proposal. The rationale and explanation must be stated in terms of the reasons the materials are legally exempt from release pursuant to the FOIA. Firms should not request that their entire proposal, nor the majority of the proposal, be confidential. Any submitted proposal, once execution of a contract is complete, and any completed contract will be considered public information. The OAG has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The firm has the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the OAG have any liability for the disclosure of any documents or information in its possession which the OAG believes are required to be disclosed pursuant to the FOIA or other requirements of law.

XVI. Conformance with Federal, State and Other Requirements

In the Contract, the firm will represent and warrant that, at all pertinent and relevant times to the contract, it has been, is and will continue to be in full compliance with all Federal, State, municipal or other governmental department, commission, board, bureau, agency or instrumentality codes, statutes, acts, ordinances, judgments, decrees, injunctions and regulations.

XVII. EXECUTIVE ORDERS AND OTHER ENACTMENTS

- 10.1 (a) All references in this Contract to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, “Enactments”) shall mean Enactments that apply to the Contract at any time during its term, or that may be made applicable to the Contract during its term. This Contract shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. At the Contractor’s request, the Client Agency shall provide a copy of these Enactments to the Contractor. Unless otherwise provided by Enactments, the Contractor is not relieved of its obligation to perform under this Contract if it chooses to contest the applicability of the Enactments

or the Client Agency's authority to require compliance with the Enactments.

- (b) This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Contract as if they had been fully set forth in it.
- (c) This Contract may be subject to (1) Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04; and (3) Executive Order Nos. 13F and 13G of Governor Ned Lamont, promulgated September 3, 2021 and September 10, 2021, respectively, concerning protection of public health and safety during COVID-19 pandemic, as extended by Executive Order No. 14A of Governor Ned Lamont, promulgated September 30, 2021. If any of the Executive Orders referenced in this subsection is applicable, it is deemed to be incorporated into and made a part of this Contract as if fully set forth in it.

XVIII. Americans with Disabilities Act

The firm(s) to which contracts are awarded shall comply with the Americans with Disabilities Act and any other applicable federal laws and regulations.

XIX. Affirmative Action and Contract Compliance Reporting

Firms are advised that in addition to evaluating their qualifications, experience, capabilities, competitiveness of cost and conformance to this RFP specification, weight may also be given to firms which demonstrate a commitment to affirmative action by full compliance with the CHRO regulations.

XX. Campaign Contribution and Solicitation Ban

For all State contracts as defined in Conn. Gen. Stat. § 9-612 having a value in a calendar year of fifty thousand dollars (\$50,000) or more or a combination or series

of such agreements or contracts having a value of one hundred thousand dollars (\$100,000) or more, the authorized signatory to the proposal in response to this RFP expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice as set forth in the *Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations* attached hereto as Exhibit 1 to the Request for Proposal.

APPENDIX A
TO REQUEST FOR PROPOSALS 2022-06

PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE STATE OF CONNECTICUT,
ACTING BY ITS ATTORNEY GENERAL,
AND

This Agreement is made by and between the STATE OF CONNECTICUT, acting by its ATTORNEY GENERAL, William Tong, duly authorized pursuant to Section 3-125 of the Connecticut General Statutes, with an office at 165 Capitol Avenue, Hartford, CT 06106 and _____, acting by _____, with its principal place of business at _____ (hereinafter referred to as the “CONTRACTOR”).

In consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

SECTION 1: SCOPE OF SERVICES

- 1.1. The Attorney General of Connecticut, pursuant to Conn. Gen. Stat. § 3-125, invites proposals from appropriately qualified firms to serve as outside counsel and provide legal services to the Judicial Branch. The scope of the legal services (the “Services”) to be provided include, without limitation, the following;
- (1) Representation of and legal counseling to the Judicial Branch concerning a matter presently before the Claims Commissioner, *Softscape, Inc. v. State of Connecticut, Judicial Branch, File No. 21238*, as well as in any subsequent litigation that may arise out of the Claims Commissioner proceeding.
 - (2) Review, analysis, investigation and research necessary to carry out the Services with respect to the above pending litigation, as well as any subsequent litigation that may arise out of the Claims Commissioner proceeding.
 - (3) Preparing, writing and providing to the ATTORNEY GENERAL or his designee all documents and instruments, in electronic, magnetic, paper and any other form, which are necessary or appropriate to carry out said Services.
 - (4) Negotiating and/or engaging in mediation, with the prior written approval of the ATTORNEY GENERAL, with any parties as necessary to carry out the Services.
 - (5) Making all court and agency appearances and filings and representing the State in all related actions, pending or threatened, suits, claims,

investigations, legal, administrative, mediation, arbitration proceedings, and whether at law or in equity, in any forum (collectively "Actions") as determined in advance in writing by the ATTORNEY GENERAL or his designees to be necessary and appropriate.

- (6) Review, analysis, investigation and research necessary to carry out the Services;
- (7) Providing all necessary expert, technical, paralegal, clerical, document retrieval and analysis and other litigation support, including ability to use discovery management, litigation management or trial management software or information technology that is necessary;
- (8) Providing staff, equipment, and expertise to minimize the administrative burdens imposed on state employees, officials, and agencies in the course of rendering the Services;
- (9) Hiring and consulting with subcontractors, including expert witnesses, consultants, mediators and investigators, as may be necessary and as approved in writing in advance by the ATTORNEY GENERAL subject to the following requirements and limitations:
 - (A) Terms of subcontracts over five thousand dollars (\$5000.00) must be approved in writing and in advance by the ATTORNEY GENERAL. In requesting approval, the firm must include the following information:
 - (i) Why it is necessary to hire a subcontractor,
 - (ii) How the proposed subcontractor was selected,
 - (iii) Proposed rates and reimbursements for the subcontractor,
and
 - (iv) Comparison of these rates to those of other qualified Subcontractors,
 - (B) Subcontracts or agreements must include terms which are substantially similar to the billing terms in the Compensation and Reimbursement Section of this Agreement; and
 - (C) The firm's bills for subcontracted work must include full detailed itemizations of all fees and expenses for the subcontracted work, with appropriate supporting documentation;
- (10) Performing all tasks under this Agreement in coordination with the Judicial Branch and ATTORNEY GENERAL; and
- (11) Providing all necessary paralegal and clerical to carry out said Services.

SECTION 2: AGREEMENT ADMINISTRATION

2.1 The person in charge of administering this Agreement on behalf of the ATTORNEY GENERAL is, _____ Associate Attorney General, and her successors in office, whose contact information is as follows:

Office of the Attorney General
165 Capitol Avenue, Hartford, CT 06106
Telephone: 860-808-5318 Email:

2.2 The person in charge of administering this Agreement on behalf of the Judicial Branch is Martin Libbin, Administrator, Legal Services, and his successors in office, whose contact information is as follows:

Connecticut Judicial Branch
100 Washington Street
Telephone: 860-706-5120 Email: martin.libbin@jud.ct.gov

2.3 The person in charge of administering this Agreement on behalf of the CONTRACTOR is [name], [title], whose contact information is as follows:

Telephone: _____ Email: _____

2.4 The professional staff members of the CONTRACTOR primarily responsible for the performance of this Agreement are _____. The CONTRACTOR may not change these individuals without the prior written consent of the ATTORNEY GENERAL.

2.5 Within seven (7) days after receiving a request by the ATTORNEY GENERAL, the CONTRACTOR shall remove from assignment to this Agreement any specified professional or other staff member and, at the ATTORNEY GENERAL'S request, shall augment the remaining staff with such other staff member(s) as is acceptable to the ATTORNEY GENERAL.

SECTION 3: COMPENSATION AND REIMBURSEMENT

3.1 (a) Rate Schedules:

(i) Hourly Rates

Position _____ Hourly Rate

The above hourly rates shall be charged only for actual time spent rendering such Services; the CONTRACTOR shall not “round off” time. The time spent rendering Services shall be billed to the tenth of an hour within any single workday.

- (ii) The ATTORNEY GENERAL or the Judicial Branch shall not be charged for any other time expended by the CONTRACTOR during travel, overnight stays, or the like associated with the performance of the Services.

(b) *Alternative Fee Arrangements*

Upon a determination by the ATTORNEY GENERAL that an alternative fee arrangement (“AFA”) for specified Services will be more advantageous to the ATTORNEY GENERAL, the ATTORNEY GENERAL and the CONTRACTOR may agree to such AFA for a specified Service, provided that no such AFA may be agreed to between the ATTORNEY GENERAL and the CONTRACTOR unless the agreement is in writing, for such specific assignment, and approved in advance by the ATTORNEY GENERAL. AFAS may include, but are not limited to, a fixed fee, a not to exceed fee, a blended hourly rate, a volume discount or other arrangement.

- 3.2 Compensation will be paid only after the submission of itemized documentation, in a form acceptable to the ATTORNEY GENERAL, or the Judicial Branch. Billings are to be on a monthly basis. The billings must contain, at a minimum, a detailed description of the work performed, the date of performance, the actual time spent performing the work, the name and position of the person(s) rendering the Service and the rate charged for that Service. The monthly bill must also be accompanied by a summary of time and charges billed for each attorney and paralegal itemized on the invoice. Upon the request of the ATTORNEY GENERAL or the Judicial Branch, CONTRACTOR must submit a summary memorandum describing how the Service rendered furthered resolution of the matter and the current status of the matter. The ATTORNEY GENERAL or his designee or the Judicial Branch may, prior to authorizing payment under this Section, require the CONTRACTOR to submit such additional accounting and information as he deems to be necessary or appropriate. The CONTRACTOR shall not be compensated for any time spent preparing any billing documentation, including but not limited to such documentation and accompanying memoranda required by this Section and the Status Reports and Records Section of this Agreement. **All bills must be sent electronically to Attorney General – Business Office at ag.businessoffice@ct.gov.**

- 3.3 The Judicial Branch agrees to reimburse the CONTRACTOR for actual, necessary and reasonable out-of-pocket disbursements and expenses, including filing fees, court costs, computerized research (at cost), commercial messenger and delivery

services (at cost), expert witnesses, consultants, mediators, investigative services, long distance telephone calls, and transcript or deposition costs. The the Judicial Branch shall not reimburse the CONTRACTOR for any overhead related expenses, including, but not limited to, duplicating, secretarial, facsimile (other than long-distance telephone line charges), clerical staff, library staff, proofreading staff, meals and in-state transportation costs or expenses unless they are otherwise approved by the Judicial Branch. The CONTRACTOR shall be reimbursed for reasonable expenses for transportation, parking and reasonable lodging and meals associated with interstate travel, specifically excluding first class airfare, as approved in advance by the Judicial Branch. Reimbursable interstate travel shall not include travel to meet with staff of the Judicial Branch or the ATTORNEY GENERAL, and all such meetings shall be conducted in Hartford, Connecticut, unless otherwise specified by the Judicial Branch.

- 3.4 The CONTRACTOR shall not be compensated for time spent on background or elementary legal research or any legal training without the prior written consent of the ATTORNEY GENERAL. Charges for legal research must be accompanied by a detailed description setting forth the purpose of the research and summarizing its nature. Any written material produced as a result of such research shall be available to the ATTORNEY GENERAL or the Judicial Branch on or before the third business day following the date of the written request. The Judicial Branch shall have the final decision in all disputes between the parties to this Agreement under this subsection.
- 3.5 The CONTRACTOR shall not be compensated for time spent in consultation with any attorney or other employee of the ATTORNEY GENERAL or the Judicial Branch] concerning the administration of this Agreement and/or issues relating to billing. Unless otherwise authorized by the Judicial Branch or ATTORNEY GENERAL, compensation for communication between or among attorneys and/or staff within the CONTRACTOR's firm is limited to the time and billing rate of the most senior attorney or staff member participating in the communication. These charges must be accompanied by a detailed description setting forth the purpose of the communication and summarizing its details. The ATTORNEY GENERAL and the Judicial Branch shall make the final determination, in their sole discretion, as to the adequacy of such description.
- 3.6 Absent the consent of the Judicial Branch or ATTORNEY GENERAL or his designee, the CONTRACTOR shall not be compensated for the attendance or participation of more than one attorney representing the State of Connecticut at or during any meeting, conference or proceeding, in person or otherwise, in any forum, in connection with performing the Services. Where more than one attorney has attended or participated in any such meeting, conference or proceeding without the consent of the Judicial Branch or ATTORNEY GENERAL or his designee, the CONTRACTOR shall be compensated only for the time of the most senior attorney in attendance or participating.

- 3.7 The CONTRACTOR shall not be compensated for the performance of paralegal or clerical type duties performed by an attorney. Paralegal duties or clerical duties include, by way of example and not limitation, routine proofreading of pleadings and other correspondence, preparation of trial or closing binders or notebooks, photocopying and coordinating the schedules of others.
- 3.8 The ATTORNEY GENERAL or his designee or the Judicial Branch shall approve for payment all undisputed fees and costs, as soon as the documentation can properly be processed in accordance with usual State practice.
- 3.9 Maximum payments under this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000).
- 3.10 The ATTORNEY GENERAL shall have the right, without the need of prior notice to the CONTRACTOR, to assign the performance of some aspect of the Services to an Associate or Assistant Attorney General where the ATTORNEY GENERAL, in his sole discretion, finds that such an assignment would best serve the interests of the State of Connecticut. This assignment shall not be deemed to be a breach of contract by the ATTORNEY GENERAL.
- 3.11 Compensation and reimbursement provided under this Section constitutes full and complete payment for all costs and expenses incurred or assumed by the CONTRACTOR in performing this Agreement. No other costs, expenses or overhead items shall be reimbursed by the Judicial Branch or ATTORNEY GENERAL without the prior written approval of the Judicial Branch or ATTORNEY GENERAL or his designee.
- 3.12 CONTRACTOR shall notify the ATTORNEY GENERAL and the Judicial Branch promptly when total billing is within fifteen percent (15%) of the contract maximum.
- 3.13 CONTRACTOR agrees that any billable work shall be discontinued if billing reaches the contract maximum, absent explicit written approval of both the ATTORNEY GENERAL and the Judicial Branch. CONTRACTOR acknowledges and agrees that failure to abide by this provision will result in waiver of any right to payment for billings or expenses in excess of contract maximum.

SECTION 4: TERMINATION

- 4.1 Notwithstanding any provisions in this Agreement, the ATTORNEY GENERAL, through a duly authorized employee, may terminate the Agreement whenever the ATTORNEY GENERAL makes a written determination that such termination is in the best interests of the State. The ATTORNEY GENERAL shall notify the CONTRACTOR in writing of termination pursuant to this Section, which notice shall specify the effective date of termination and the extent to which the CONTRACTOR must complete performance of the Services prior to such date.

- 4.2 In the case of any termination, the ATTORNEY GENERAL shall, within forty-five (45) days of final billing after the effective date of termination, pay the CONTRACTOR for its performance rendered and accepted by the ATTORNEY GENERAL, in addition to all actual and reasonable costs incurred after notice of termination in completing those portions of the Services which the CONTRACTOR was required to complete by the notice. However, the CONTRACTOR is not entitled to receive and the ATTORNEY GENERAL is not obligated to tender to the CONTRACTOR any payments for anticipated or lost profits.
- 4.3 Upon termination of the Agreement, for any reason, including the expiration of this contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive termination. All representations, warranties, agreements and rights of the parties under the Agreement shall survive such termination to the extent not otherwise limited in the Agreement and without each one of them having to be specifically mentioned in the Agreement.
- 4.4 Termination of the Agreement pursuant to this Section shall not be deemed to be a breach of contract by the ATTORNEY GENERAL.
- 4.5 Upon receipt of written notification from the ATTORNEY GENERAL of termination or expiration of this contract, the CONTRACTOR shall immediately cease to perform the Services unless otherwise directed by the ATTORNEY GENERAL or to the extent necessary to prevent the State from failing to make timely filings or otherwise failing to comply with court orders or the law. The Records, as that term is defined in the Indemnification section of this Agreement, are deemed to be the property of the State. The CONTRACTOR shall assemble and deliver to the ATTORNEY GENERAL all Records in electronic, magnetic, paper or any other form, that may be in his possession or custody, and shall transmit the same to the ATTORNEY GENERAL or his designee as soon as possible in a non-proprietary format no later than the fifteenth day following the receipt of the above-written notice, together with a detailed hourly description of the Services performed and expenses reasonably incurred.
- 4.6 The CONTRACTOR, on sixty (60) days' prior written notice to the ATTORNEY GENERAL, may terminate this Agreement.
- 4.7 If the CONTRACTOR terminates this Agreement, the CONTRACTOR shall not be entitled to any compensation for Services that are rendered or payment for expenses that are incurred subsequent to the effective date of termination.

SECTION 5: TIME OF PERFORMANCE

- 5.1 The CONTRACTOR shall perform the Services at such times and in such sequence as may be reasonably directed by the ATTORNEY GENERAL and the Judicial Branch.

- 5.2 This Agreement will run from its effective date until the tasks defined and confirmed as set forth in Section 1.1 of this Agreement are performed or completed to the satisfaction of the ATTORNEY GENERAL, or unless sooner terminated in accordance with the Termination section of this Agreement, but in no event beyond five (5) years, unless otherwise amended.

SECTION 6: SETOFF

- 6.1 In addition to all other remedies that the ATTORNEY GENERAL may have, the ATTORNEY GENERAL, in his sole discretion, may setoff (i) any costs or expenses that the State incurs resulting from the CONTRACTOR'S unexcused non-performance under the Agreement and under any other agreement or arrangement that the CONTRACTOR has with the State and (ii) any other amounts that are due or may become due from the State to the CONTRACTOR, against amounts otherwise due or that may become due to the CONTRACTOR under the Agreement, or under any other agreement or arrangement that the CONTRACTOR has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the CONTRACTOR'S breach of the Agreement, all of which shall survive any setoffs by the State.

SECTION 7: CROSS DEFAULT

- 7.1 If the CONTRACTOR breaches, defaults or in any way fails to perform satisfactorily under the Agreement, then the ATTORNEY GENERAL may, in his sole discretion, without more and without any action whatsoever required of the ATTORNEY GENERAL, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements ("Other Agreements") that the CONTRACTOR has with the ATTORNEY GENERAL. Accordingly, the ATTORNEY GENERAL may then exercise at his sole option any and all of its rights or remedies provided for in the Agreement or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the ATTORNEY GENERAL, as if the CONTRACTOR had suffered a breach, default or failure to perform under the Other Agreements.
- 7.2 If the CONTRACTOR breaches, defaults or in any way fails to perform satisfactorily under any or all Other Agreements with the ATTORNEY GENERAL or the State, then the ATTORNEY GENERAL may, in his sole discretion, without more and without any action whatsoever required of the ATTORNEY GENERAL, treat any such event as a breach, default or failure to perform under the Agreement. Accordingly, the ATTORNEY GENERAL may then exercise at his sole option any and all of its rights or remedies provided for in the Other Agreements or the Agreement, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the ATTORNEY GENERAL or the

State, as if the CONTRACTOR had suffered a breach, default or failure to perform under the Agreement.

SECTION 8: REPRESENTATIONS AND WARRANTIES

8.1 The CONTRACTOR represents and warrants to the ATTORNEY GENERAL for itself and for the Contractor Agents, as defined in the Indemnification Section of this Agreement, as applicable, that:

- (a) The CONTRACTOR is duly and validly existing under the laws of its state of organization and is authorized to conduct business in the State of Connecticut in the manner contemplated by the Agreement. Further, it has taken all necessary action to authorize the execution, delivery and performance of the proposal and the Agreement and has the power and authority to execute, deliver and perform its obligations under the Agreement;
- (b) It will comply with all applicable State and Federal laws and municipal ordinances in satisfying its obligations under and pursuant to the Agreement, including, but not limited to Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics;
- (c) The execution, delivery and performance of the Agreement will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (i) any provision of law; (ii) any order of any court or the State; or (iii) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) The CONTRACTOR and Contractor Agents have not, within the three (3) years preceding the Agreement, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) The CONTRACTOR and Contractor Agents are not presently indicted or, to the best of their knowledge, under investigation for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;

- (g) The CONTRACTOR and Contractor Agents have not within the three (3) years preceding the Agreement had one or more contracts with any governmental entity terminated for cause;
- (h) To the best of its knowledge, there are no Claims, as defined in the Indemnification Section of this Agreement, involving the CONTRACTOR that might reasonably be expected to materially adversely affect its businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Agreement;
- (i) It shall disclose, to the best of its knowledge, to the ATTORNEY GENERAL in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Agreement, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims;
- (j) Its participation in the request for proposal process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (k) The proposal was not made in connection or concert with any other person, entity or proposer submitting a proposal and is in all respects fair and without collusion or fraud;
- (l) It has paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (m) It owes no past due unemployment compensation contributions;
- (n) It is not delinquent in the payment of any taxes owed to the State of Connecticut.
- (o) It shall not copy or divulge to any third party any information or any data in any form obtained or produced in connection with the performance of its duties and responsibilities pursuant to this Agreement other than in connection with the performance of those duties and responsibilities. The CONTRACTOR shall keep all confidential or privileged the Records in secured areas and shall take reasonable precautions to protect the Records from the dangers of fire, theft, flood, natural disasters and other physical threats, as well as unauthorized access.
- (p) During the course of this Agreement, the CONTRACTOR shall not represent any other client if such representation will materially affect its duties or obligations to the State of Connecticut or the ATTORNEY GENERAL or create an appearance of impropriety.
- (q) The CONTRACTOR will not knowingly enter into or retain any business

relationships or enterprise in which an employee of the ATTORNEY GENERAL holds an interest, other than a nominal interest in a publicly held corporation, without the prior written consent of the ATTORNEY GENERAL.

SECTION 9: STATUS REPORTS AND RECORDS

- 9.1 Upon written or oral request by the ATTORNEY GENERAL or his designee, the CONTRACTOR will promptly report on the status of the Services performed, including, but not limited to, problems, strategy, analysis and the like.
- 9.2 The above-described reports shall be provided in writing or orally, as directed by the person requiring a work status report.
- 9.3 The CONTRACTOR, upon the request of the ATTORNEY GENERAL or his designee, shall give to the ATTORNEY GENERAL or his designee all original documentation, or, in the sole discretion of the ATTORNEY GENERAL or his designee, copies thereof, filed in the course of, or arising out of, the CONTRACTOR'S performance of the Services. The CONTRACTOR shall otherwise maintain all original documentation, or copies thereof in the manner specified in the Representations and Warranties section of this Agreement, for a period of at least six (6) years after the termination of this Agreement.

SECTION 10: INSURANCE

- 10.1 Before commencing performance of the Services, the CONTRACTOR shall obtain and maintain at its own cost and expense for the duration of the Agreement, the following insurance:
 - (a) Commercial General Liability: One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the work covered by this Agreement or the general aggregate limit shall be twice the occurrence limit.
 - (b) Automobile Liability: One million dollars (\$1,000,000) combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the COUNSEL does not own an automobile, but one is used in the performance of the Services, then only hired and non-owned coverage is required. If a vehicle is not used in the performance of the Services, then automobile coverage is not required.
 - (c) Workers' Compensation and Employers Liability: Coverage in compliance with applicable workers compensation laws. Coverage shall include

Employer's Liability with minimum limits of one hundred thousand dollars (\$100,000) each accident, five hundred thousand dollars (\$500,000) Disease – Policy limit, one hundred thousand dollars (\$100,000) each employee.

- (d) Professional Liability: The CONTRACTOR shall secure and maintain, at no cost or expense to the State, a professional liability insurance policy in a form acceptable to the ATTORNEY GENERAL in the minimum amount of _____ dollars (\$_____) with a deductible not to exceed _____ (\$_____). This policy shall insure the CONTRACTOR against damages and costs resulting from negligent acts, errors, and omissions in the work performed by the CONTRACTOR on and after the effective date of, and under the terms of, this Agreement. The CONTRACTOR may, at its election, obtain a policy containing a maximum _____ dollars (\$_____) deductible clause, but if so, the CONTRACTOR shall be liable, as stated above herein, to the extent of the deductible amount.

- 10.2 No later than thirty (30) days after the effective date of this Agreement, the CONTRACTOR shall furnish to the ATTORNEY GENERAL, on a form or forms acceptable to the ATTORNEY GENERAL, a Certificate of Insurance, including amendment(s), fully executed by an insurance company or companies satisfactory to the ATTORNEY GENERAL for the insurance policy or policies required in the Status Reports and Records Section of this Agreement, which policy or policies shall be in accordance with the terms of the Certificate of Insurance.

SECTION 11: INDEMNIFICATION

- 11.1 The CONTRACTOR shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims, as defined below, arising, directly or indirectly, in connection with the Agreement, including the acts of commission or omission (collectively, the "Acts") of the CONTRACTOR or Contractor Agents, as defined below; and (2) liabilities, damages, losses, costs and expenses, including, but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Agreement. The CONTRACTOR shall use attorneys and contractors reasonably acceptable to the State in carrying out its obligations under this Section. The CONTRACTOR'S obligations under this Section to indemnify, defend and hold harmless the State against Claims includes Claims concerning the confidentiality of any part or all of the proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions or articles furnished or used in the performance of the Agreement.
- 11.2 The CONTRACTOR shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the CONTRACTOR or any

Contractor Agents. The State shall give the CONTRACTOR reasonable notice of any such Claims.

- 11.3 The CONTRACTOR'S duties under this Section shall remain fully in effect and binding in accordance with the terms and conditions of the Agreement, without being lessened or compromised in any way, even where the CONTRACTOR is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- 11.4 The rights provided in this Section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- 11.5 This section shall survive the Termination, Cancellation or Expiration of the Agreement, and shall not be limited by reason of any insurance coverage.
- 11.6 The term "Claims" means all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.
- 11.7 The term "Contractor Agents" means the CONTRACTOR'S members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the CONTRACTOR is in privity of oral or written contract and whom the CONTRACTOR intends to perform services under the Agreement in any capacity.
- 11.8 The term "Records" means all working papers and such other information and materials as may have been accumulated by the CONTRACTOR or Contractor Agents in performing the Agreement, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
- 11.9 The CONTRACTOR shall not use, raise, or plead the defense of sovereign or governmental immunity in the adjustment or settlement of any Claims against the CONTRACTOR arising out of the work performed under this Agreement, or as a defense in any Claims, unless specifically authorized to do so in writing by the ATTORNEY GENERAL or his designee.

SECTION 12: CHANGES TO THIS AGREEMENT

- 12.1 Any and all amendments, changes, extensions, revisions or discharges of this Agreement, in whole or in part, on one or more occasions, must be in writing and executed by all the parties to this Agreement in order to be enforceable.

SECTION 13: REQUIRED PERSONNEL/OFFICE

- 13.1 On or before the effective date of this Agreement, the CONTRACTOR shall have secured, and shall maintain during the term of this Agreement, all at its sole cost and expense (i) such appropriately skilled and competent personnel and supporting staff in adequate numbers; and (ii) such equipment as are reasonably necessary or appropriate to fully perform the Services to the satisfaction of the ATTORNEY GENERAL.
- 13.2 The personnel shall not be employees of or have any contractual relationship with the ATTORNEY GENERAL.
- 13.3 All the Services shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in the Services shall be fully qualified and shall be authorized or permitted under law to perform the applicable Services.

SECTION 14: NONDISCRIMINATION

- 14.1 (a) For purposes of this Section, the following terms are defined as follows:
1. "Commission" means the Commission on Human Rights and Opportunities;
 2. "Contract" and "contract" include any extension or modification of this Contract;
 3. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;"
 4. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose;
 5. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
 6. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

7. "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
8. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
9. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
10. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

(b) For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the State, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract, (2) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4).

1. The Contractor agrees and warrants that in the Performance of this Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status of a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents Performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when

employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status of a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents Performance of the work involved;

2. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action equal opportunity employer" in accordance with regulations adopted by the Commission;
 3. the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this Section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 4. the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a- 68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
 5. the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the Term of this Contract and any amendments thereto.
- (g)
 - (1) The Contractor agrees and warrants that in the Performance of this Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
 - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this Section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (3) the Contractor agrees to comply with each provision of this Section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §46a-56; and
 - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes §46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding

on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- (i) Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such sections. The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by either (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such sections, or (B) initialing this nondiscrimination affirmation in the following box:

SECTION 15: CAMPAIGN CONTRIBUTIONS

- 15.1 For all State contracts as defined in Conn. Gen. Stat. § 9-612(g)(1) having a value in a calendar year of fifty thousand dollars (\$50,000) or more or a combination or series of such agreements or contracts having a value of one hundred thousand dollars (\$100,000) or more, the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached hereto as Exhibit 1 to the Professional Services Agreement.

SECTION 16: EXECUTIVE ORDERS AND OTHER ENACTMENTS

- 16.1 (a) All references in this Contract to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, "Enactments") shall mean Enactments that apply to the Contract at any time during its term, or that may be made applicable to the Contract during its term. This Contract shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. At the Contractor's request, the Client Agency shall provide a copy of these Enactments to the Contractor. Unless otherwise provided by

Enactments, the Contractor is not relieved of its obligation to perform under this Contract if it chooses to contest the applicability of the Enactments or the Client Agency's authority to require compliance with the Enactments.

- (b) This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Contract as if they had been fully set forth in it.
- (c) This Contract may be subject to (1) Executive Order No. 14 of Governor M.Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04; and (3) Executive Order Nos. 13F and 13G of Governor Ned Lamont, promulgated September 3, 2021 and September 10, 2021, respectively, concerning protection of public health and safety during COVID-19 pandemic, as extended by Executive Order No. 14A of Governor Ned Lamont, promulgated September 30, 2021. If any of the Executive Orders referenced in this subsection is applicable, it is deemed to be incorporated into and made a part of this Contract as if fully set forth in it.

SECTION 17: CONFIDENTIALITY

- 17.1 All of the reports, information, data, and other papers and materials, in whatever form, prepared or assembled by the CONTRACTOR under this Agreement are confidential, and the CONTRACTOR shall not make them available to any individual or organization, other than in connection with the performance of those duties and responsibilities, without the prior written approval of the ATTORNEY GENERAL or his designee.
- 17.2 The ATTORNEY GENERAL will afford due regard to any request of the CONTRACTOR for the protection of proprietary or confidential information which the ATTORNEY GENERAL receives from the CONTRACTOR. However, all materials associated with the Agreement are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the CONTRACTOR may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the CONTRACTOR believes are

exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the CONTRACTOR that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Agreement, especially including the Records, conflicts or is in any way inconsistent with this Section, this Section controls and shall apply and the conflicting provision or part shall not be given effect. The ATTORNEY GENERAL shall not have any obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The CONTRACTOR shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the ATTORNEY GENERAL or the State have any liability for the disclosure of any documents or information in its possession which the ATTORNEY GENERAL believes are required to be disclosed pursuant to the FOIA or other requirements of law.

SECTION 18: MISCELLANEOUS

- 18.1 The sole and exclusive means for the presentation of any Claim, as defined in the Indemnification Section of this Agreement, against the State arising from this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State). The CONTRACTOR shall not initiate any legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings.
- 18.2 The Agreement shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that Chapter 53 of the Connecticut General Statutes does not apply and to the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The CONTRACTOR waives any objection which it may now have or will have to the laying of venue of any Claims, as defined in the Indemnification Section of this Agreement, in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

- 18.3 The parties each bind themselves, their partners, successors, assigns, and legal representatives with respect to all covenants of this Agreement.
- 18.4 This Agreement incorporates all the understandings of the parties and supersedes any and all agreements relating to the Services and reached by the parties prior to the effective date of this Agreement, whether oral or written.
- 18.5 If any provision of this Agreement, or application to any party or circumstances, is held invalid by any court of competent jurisdiction, the balance of the provisions of this Agreement, or their application to any party or circumstances, shall not be affected, but only if the balance of the provisions of this Agreement would then continue to conform to the requirements of applicable laws.
- 18.6 The ATTORNEY GENERAL and the CONTRACTOR shall not be excused from their obligation to perform in accordance with the Agreement except in the case of force majeure events and as otherwise provided for in the Agreement. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance. "Force majeure events" means events that materially affect the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the CONTRACTOR, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the CONTRACTOR, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
- 18.7 The CONTRACTOR shall not refer to services provided to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without the ATTORNEY GENERAL'S prior written approval.
- 18.8 The CONTRACTOR shall notify the ATTORNEY GENERAL in writing no later than ten (10) days from the effective date of any change in (i) its certificate of incorporation or other organizational document, or (ii) a controlling interest in the ownership of the CONTRACTOR. No such change shall relieve the CONTRACTOR of any responsibility for the accuracy and completeness of the performance. The CONTRACTOR shall deliver such documents to the ATTORNEY GENERAL in accordance with the terms of the ATTORNEY GENERAL'S written request. The ATTORNEY GENERAL may also require, and the CONTRACTOR shall deliver, a financial statement showing that solvency of the CONTRACTOR is maintained.
- 18.9 The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Agreement and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Agreement, in order to give full effect to the Agreement and to carry out the intent of the Agreement.

- 18.10 The CONTRACTOR shall maintain accurate Records and shall make all of the Records available at all reasonable hours for audit and inspection by the State. This includes, but is not limited to accurate records and accounts of all expenditures under this Agreement as well as satisfactory evidence of payment to assure proper accounting. Such records and accounts shall be kept in the manner specified in the Representations and Warranties Section, and made available for at least six years after the termination of this Agreement and shall be made available and furnished upon request to the ATTORNEY GENERAL or his designee on or before the tenth business day following the date of the written request. The CONTRACTOR will cooperate fully with any and all audit or review of billing by the ATTORNEY GENERAL or any other agency, person, or entity acting on behalf of the ATTORNEY GENERAL or the STATE, and shall, upon request, provide billing in a format which will facilitate audit or review.
- 18.11 The CONTRACTOR shall continue to perform its obligations under the Agreement while any dispute concerning the Agreement is being resolved.
- 18.12 The CONTRACTOR shall be responsible for the entire performance under the Agreement. The CONTRACTOR shall be the sole point of contact concerning the management of the Agreement, including performance and payment issues. The CONTRACTOR is solely and completely responsible for adherence by the Contractor Agents to all applicable provisions of the Agreement.
- 18.13 The waiver of a term or condition by the ATTORNEY GENERAL or his designee shall not (i) entitle the CONTRACTOR to any future waivers of the same or different terms or conditions; (ii) impose any duties, obligations or responsibilities on the ATTORNEY GENERAL or any State department or agency not already in the Agreement, as amended, modified or superseded; or (iii) subject the ATTORNEY GENERAL or the State of Connecticut or any department or agency thereof to any Claims.
- 18.14 If a disagreement arises between the parties to this Agreement as to whether or not the CONTRACTOR has or may in the foreseeable future have a conflict of interest or there exists or may exist in the foreseeable future an appearance of impropriety, the ATTORNEY GENERAL'S determination shall be final and dispositive of the issue. Where the ATTORNEY GENERAL determines that the CONTRACTOR'S representation of any client constitutes a conflict of interest, or creates an appearance of impropriety, the CONTRACTOR shall, within five (5) days of the posting of notice by the ATTORNEY GENERAL or his designee to the CONTRACTOR, withdraw from the representation of the client, unless such a withdrawal is barred by law or order of a court of competent jurisdiction or the ATTORNEY GENERAL waives such conflict. Nothing in this subsection shall be construed as restricting or otherwise limiting the CONTRACTOR'S rights under the Termination Section of this Agreement.
- 18.15 Unless the ATTORNEY GENERAL designates otherwise in writing, all Records generated or collected by the CONTRACTOR, the Contractor's Agent or any

subcontractor, in the scope of their work under this Agreement are the exclusive property of the State of Connecticut and no one else shall have any right, including but not limited to, intellectual property, copyright and trademark rights, in those Records.

- 18.16 The CONTRACTOR acknowledges that the ATTORNEY GENERAL has relied upon all of the CONTRACTOR'S representations in its proposal, submitted in response to the ATTORNEY GENERAL'S Request for Proposals concerning this matter and all subsequent information supplied to the ATTORNEY GENERAL in writing thereafter, as the basis for entering into this Agreement with the CONTRACTOR. Any material misrepresentation, omission, mistake or error in those submittals shall be deemed to be a breach of this Agreement, which the ATTORNEY GENERAL may, in his sole discretion, waive or afford the CONTRACTOR the opportunity to cure in accordance with the written notice of such breach sent to the CONTRACTOR.
- 18.17 References in the masculine gender shall also be construed to apply to the feminine and neuter genders, as the content requires.
- 18.18 The parties acknowledge and agree that nothing in the ATTORNEY GENERAL'S request for proposals or the Agreement shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Agreement. To the extent that this Section conflicts with any other section, this Section shall govern.
- 18.19 Any notice required or permitted to be given under this Agreement shall be deemed to be given when hand delivered or one (1) business day after pickup by any express delivery service, in either case addressed to the persons identified in the Agreement Administration Section of this Agreement, or in each case to such other person and/or address as either party may from time to time designate by giving notice in writing to the other party. Telephone and facsimile numbers are for informational purposes only. Effective notice will be deemed given only as provided above. All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Agreement (for the purpose of this Section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested, or, placed with a recognized, express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to the ATTORNEY GENERAL:

Eileen Meskill, Associate Attorney General
Office of the Attorney General
165 Capitol Avenue, Hartford, CT 06106
Telephone: 860-808-5318 Email:Eileen.meskill@ct.gov

If to the AGENCY:

Martin Libbin, Administrator, Legal Services
Connecticut Judicial Branch
100 Washington Street
Telephone: 860-706-5120 Email: martin.libbin@jud.ct.gov

If to the CONTRACTOR:

18.20 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope of content of any of its provisions.

18.21 Time is of the essence in this Agreement.

18.22 This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed two (2) counterparts of this Agreement.

FIRM

Date

By: _____

STATE OF CONNECTICUT

Date

By: _____
William Tong, Attorney General

**APPENDIX B
COMPLAINT**

STATE OF CONNECTICUT
CLAIMS COMMISSION

PAVONIX (MASSACHUSETTS), INC. :
f/k/a SOFTSCAPE, INC. :
 :
 :
 :
v. :
 : File No.: 21238
 :
 :
STATE OF CONNECTICUT, :
JUDICIAL BRANCH : November 2, 2012

SECOND AMENDED COMPLAINT

PARTIES

1. The Plaintiff, PAVONIX (MASSACHUSETTS), INC. f/k/a SOFTSCAPE, INC., is a Massachusetts corporation having its principal place of business in Massachusetts.

2. In September 2010, SOFTSCAPE, INC. changed its name to PAVONIX (MASSACHUSETTS), INC. ("PAVONIX").

3. The Defendant, STATE OF CONNECTICUT, JUDICIAL BRANCH ("STATE"), is a Connecticut state agency with a principal place of business at 75 Elm Street, Hartford, Connecticut, 06106.

FACTS

4. At all relevant times, PAVONIX designed and installed web-based software products and provided related services to assist its customers in both the private and public sectors. PAVONIX invested substantial amounts of time and money in developing its innovative software products. A valuable part of PAVONIX's software products was its source code.

5. On or about June 20, 2000, PAVONIX and STATE entered into a Software Development and License Agreement ("the Agreement") for the development and maintenance of a relational database information system known as the Case Management Information System

("CMIS") for STATE's Court Support Services Division ("CSSD"). A copy of the Agreement is attached hereto as Exhibit "A" and incorporated herein.

6. The Agreement was signed by Henry Watkins, then-CEO of PAVONIX, and by Cortez White, Director of Materials Management for STATE.

7. Specifically, the Agreement provides for the development by PAVONIX of CMIS for use by STATE under license on terms set forth in the Agreement, including certain terms, on a fixed fee basis. The Agreement further states that after the development and implementation of CMIS, PAVONIX would continue to provide maintenance and support services during an initial 360 day Support Period and subsequent extended Support Periods having an initial term of 24 months and successive terms of 12 months thereafter.

8. Pursuant to Paragraph 3(a) of the Agreement, PAVONIX retained at all times ownership of the "Licensed Program", as defined in the Agreement, and the Company granted to STATE, "a perpetual, non-exclusive, non-transferable, Enterprise-wide license to use a specific language version... of the Licensed Program, ... solely for its internal data processing operations...."

9. Pursuant to Paragraph 3(b) of the Agreement, PAVONIX "shall retain all rights in the Licensed Program and Documentation developed by [PAVONIX], and any inventions, creations and improvements whether or not patentable or copyrighted, conceived or made in connection with the use of the licensed software...."

10. Between August 2000 and December 2005, PAVONIX committed substantial time and resources to the development, implementation and refinement of CMIS and to the provision of ongoing support and maintenance of the system in accordance with its obligations under the Agreement.

11. Because of the substantial investment PAVONIX made in developing its software products, including the Licensed Program and CMIS, and the enormous competitive advantage its products provide, PAVONIX carefully safeguarded its proprietary information used to develop and build its products, including its source code.

12. PAVONIX owns all copies and all versions of the Licensed Program, source code, product documentation, and procedures for building source code and executables licensed to STATE. The Licensed Program was licensed, not sold, to STATE. PAVONIX never revealed to the public any version of its source code related to the Licensed Program and CMIS.

13. Additionally, PAVONIX owns and has valid copyrights in its CMIS source code. PAVONIX obtained Copyright Registration Nos. TX 7-187-411 and TX 7-187-527 from the United States Copyright Office, as modified by the Supplementary Registrations filed under Form CA on February 7, 2011 ("Copyright Registrations"). These Copyright Registrations are for CMIS Version 9.02 and CMIS Version 10 UAT 4, the source code at issue in this case.

14. Pursuant to § 7(a) of the Agreement, STATE "shall treat the Licensed Program as confidential, shall not use the Licensed Program except as contemplated under this Agreement, and shall not disclose the Licensed Program to any third party to the extent permitted by law." Additionally, pursuant to § 7(b) of the Agreement, "[n]either party shall use any of the other party's Confidential Information [as defined therein] except as contemplated under this Agreement."

15. In late 2005 and early 2006, the parties acknowledged the need to modify the terms of their original Agreement in light of the fact that the needs and demands of STATE had evolved significantly beyond what was contemplated in the original Agreement and, accordingly, the existing financial arrangement was no longer workable.

16. Accordingly, in February 2006, PAVONIX proposed that it would move forward on a defined set of specific projects based upon the presentation to STATE of Project ID Request Forms ("PIRF" or "PIRFs") which include a summary of the work to be performed, the hours to be expended and the number of people to be assigned to each project. This resulted in mutually agreed costs associated with that work. All of the work contemplated would be performed, not on a fixed price basis, but rather on a "time and materials" basis at a rate of \$131 per hour. PAVONIX took great care to explain the difference between fixed price work and time and materials work, and STATE agreed to proceed.

17. On or about March 2, 2006, STATE authorized PAVONIX to proceed with the contemplated projects as proposed and subsequently executed 15 PIRFs authorizing such work.

18. In reliance upon and pursuant to STATE's agreement and authorization, PAVONIX committed substantial resources and additional employees to this work in an effort to complete all projects in as timely a manner as reasonably possible. Henceforth, PAVONIX was submitting multiple invoices on a monthly basis for all of the work being performed for STATE.

19. In or about May 2006, PAVONIX management recognized that STATE was withholding sums of money due from each invoice submitted. PAVONIX raised its concerns with STATE as to the withholding of these funds and attempted to negotiate a resolution of the billing dispute while continuing to perform all of its work for STATE over a series of months.

20. As a consequence, while the work and the negotiations continued simultaneously, the amount in dispute continued to grow.

21. Over the next year, there were many meetings between the parties both at the project level and at the executive level in an attempt to find a mutually agreeable resolution.

PAVONIX offered a number of concessions in an effort to ameliorate the situation and preserve the long-term relationship, but STATE rejected these offers.

22. Pursuant to the Agreement, two versions of CMIS were delivered to STATE in the last quarter of 2006: CMIS Version 9.02 (production delivery/release) and CMIS Version 10 UAT 4.

23. Finally, on or about March 28, 2007, PAVONIX notified STATE that it was terminating its extended support services in accordance with the terms of the Agreement and would not perform further development work on the projects authorized in March 2006 until STATE brought its account current and paid all outstanding amounts due. STATE had steadfastly failed, neglected and refused to pay the sums properly owing to PAVONIX.

24. The present claim was originally filed in October of 2007 for unpaid amounts due PAVONIX per the Agreement, as amended. Thereafter, PAVONIX began to suspect that STATE may have used its source code in contravention to the license, without PAVONIX's authorization, and in breach of the Agreement, in connection with the development of STATE's Judicial Electronic Bridge ("JEB") system. Upon information and belief, JEB is an electronic exchange that allows state and local officials and police to access electronically a variety of documents including sentencing transcripts, presentence investigation reports and other case information generated by CMIS. This suspicion was based on certain Powerpoint slides related to a CMIS presentation found on the internet. Such use would also be an infringement of PAVONIX's intellectual property rights, and misappropriation of PAVONIX's trade secrets.

25. PAVONIX sought discovery on these issues in the context of the present claim. On August 12, 2008, PAVONIX submitted a First Set of Interrogatories and Requests for Production to STATE, which, in part, sought information related to disclosure and distribution of

CMIS to third parties or other employees of STATE, whether CMIS had been modified or enhanced and whether and to what extent STATE has continued to use, employ and/or rely on CMIS in its operations. On January 23, 2009, PAVONIX submitted a Second Set of Interrogatories and Requests for Production to STATE, which were more focused on potential infringement of PAVONIX's intellectual property. PAVONIX requested, in part, information related to JEB, including source code.

26. Additionally, counsel for PAVONIX raised these concerns relating to JEB directly with the Assistant Attorney General representing STATE. The Assistant Attorney General responded by letter on March 25, 2009, claiming that STATE "vehemently denies that it has violated the software agreement regarding the use of your client, Softscape, Inc.'s, source code." A copy of the letter is attached hereto as Exhibit "B" and incorporated herein.

27. On June 19, 2009, STATE submitted objections and responses to the above-referenced second set of discovery requests, wherein STATE reiterated the Assistant Attorney General's explanations and denials contained in the March 25 letter. STATE also interposed many objections to the document requests, including those related to JEB. STATE still had not responded to the first set of discovery requests.

28. At that time, STATE took the position that it could not comply with the discovery requests until a confidentiality order was entered by the Claims Commissioner. That order was entered by the Claims Commissioner on or about August 20, 2009, following months of repeated delay by STATE, negotiation over the terms of the order, and a status conference with the Claims Commissioner in early August 2009.

29. PAVONIX retained a forensic information technologist, Bruce F. Webster, to conduct a forensic analysis of certain aspects of the software system currently being used by

STATE to determine whether in fact PAVONIX's intellectual property has been misappropriated or infringed. However, he was unable to perform any analysis until he obtained the necessary documents and electronic information from STATE.

30. Despite PAVONIX's best efforts at moving the process forward, discovery was again delayed by STATE during the last quarter of 2009. Counsel for PAVONIX contacted the Assistant Attorney General on many occasions to obtain outstanding discovery. Although PAVONIX received some discovery responses, including three computer disks of information, a substantial amount of the information was largely or completely irrelevant. Moreover, STATE still had not produced answers to the first set of discovery requests, nor information in response to PAVONIX's second set of discovery requests. In follow up conversations, the Assistant Attorney General indicated that her office was severely understaffed due to Connecticut's budget crisis, that she was consumed with a jury trial in federal court that would occupy all of her time through the end of 2009, and that she would not be in a position to provide any further discovery compliance until after the first of the year.

31. Ultimately, on October 24, 2009, PAVONIX filed a Motion to Compel. In response, STATE filed a request that it be allowed until December 31, 2009 to respond to the Motion to Compel, based on another trial and the understaffing in the Attorney General's office. STATE's request for an extension of time was granted.

32. On December 28, 2009, counsel for PAVONIX wrote the Claims Commissioner a letter regarding the status of the case and expressing concern regarding the delays in discovery. A copy of the letter is attached hereto as Exhibit "C."

33. On January 4, 2010, PAVONIX propounded a Third Set of Interrogatories and Requests for Production targeted at obtaining additional, specific information necessary for the

forensic analysis of the relevant software and source codes. Indeed, PAVONIX and Mr. Webster still had not received the source code for inspection and analysis.

34. On February 22, 2010, STATE served partial responses and objections to this third set of discovery requests. However, the source codes and certain other information were not produced at that time. The parties agreed to discuss in detail how best to transmit the information and codes, including source code related to CMIS and JEB, to be produced for PAVONIX's forensic analysis.

35. On March 30, 2010, the Assistant Attorney General handling the case for STATE informed PAVONIX's counsel that she was taking a ten-month leave of absence, and that another Assistant Attorney General would be assuming her responsibilities in this matter.

36. In April of 2010, the parties agreed on what would be produced to Mr. Webster. However, by the end of May, 2010, the information and codes still had not been produced by STATE, and the Assistant Attorney General assured PAVONIX's counsel that STATE was working on it and that the appropriate individuals were doing all they could to expedite the process.

37. Mr. Webster finally received the information and codes from STATE in June of 2010, and began his review and inspection.

38. On December 21, 2010, Mr. Webster produced an Expert Witness Report, a copy of which is attached hereto as Exhibit "D" and incorporated herein by reference. Mr. Webster concluded that STATE's JEB software makes both direct and replicated use of PAVONIX's CMIS database system and the underlying database architecture and design. In making direct use of the CMIS database, STATE relies upon the architecture, design, composition and naming practices of the database itself. Moreover, every day, STATE does wholesale replication –

copying – of PAVONIX’s proprietary database table design and then relies upon that database design for the operation of the JEB systems. STATE makes use of the replicated database tables as if using the CMIS database tables directly. In fact, STATE has created derivative works from PAVONIX’s Licensed Program. STATE also uses PAVONIX’s non-generic CMIS database column names in its JEB source code, indicating derivation from and dependence upon PAVONIX’s CMIS data architecture and design. The CMIS column names not only appear in STATE’s wholesale copying of CMIS database tables, but also in JEB-specific database tables as well. Therefore, the JEB systems rely upon and are entwined with PAVONIX’s proprietary database design and data models at all levels. Accordingly, PAVONIX filed an Amended Complaint on or about February 17, 2011.

**AS AND FOR A FIRST CAUSE OF
ACTION FOR BREACH OF LICENSING AGREEMENT**

1-38. PAVONIX repeats and realleges each and every allegation set forth in Paragraphs 1 through 38 above as if fully set forth herein.

39. Pursuant to § 23 of the Agreement, STATE is prohibited from, inter alia, copying, distributing, disclosing, transferring or modifying the Licensed Program, as defined therein.

40. Upon information and belief, STATE has breached the Agreement in one or more of the following ways: (a) copying and continuing to copy PAVONIX’s Licensed Program without authorization, (b) improperly using PAVONIX’s Licensed Program and proprietary and confidential information in ways not authorized under the Agreement, (c) disclosing and/or distributing the Licensed Program to third parties, and (d) modifying the Licensed Program.

41. As set forth in the attached Expert Witness Report, STATE’s JEB programs make direct, repeated and extensive copying and use of PAVONIX’s CMIS database organization and design. The JEB software also replicates (copies) PAVONIX’s CMIS database tables and design,

and makes extensive use of those replicated CMIS database tables. STATE has improperly created derivative works from the Licensed Program and PAVONIX's proprietary and confidential information, including CMIS source code.

42. This use and copying of the Licensed Program and PAVONIX's proprietary and confidential information, including CMIS source code, was not and is not authorized by PAVONIX and not permitted under the Agreement.

43. Additionally, upon information and belief, STATE has significantly expanded the number of potential and actual users of the CMIS system in violation of the Agreement's enterprise-wide license, which only applied to the Judicial Branch and CMIS. For example, upon information and belief, not only does the JEB system make direct use of and replicate CMIS, JEB is used by federal employees and individuals who are not members of the Judicial Branch, i.e. those who are not included in the above-mentioned enterprise-wide license. STATE has failed to pay license fees for such users of JEB and any other programs that run on CMIS or use CMIS to function as a system to underlie other applications.

44. As a result of STATE's aforesaid breaches of the Agreement, PAVONIX has suffered damages.

**AS AND FOR A SECOND CAUSE OF ACTION FOR
COPYRIGHT INFRINGEMENT**

1-38. PAVONIX repeats and realleges each and every allegation set forth in Paragraphs 1 through 38 above as if fully set forth herein.

39. Under Section 106 of the Copyright Act of 1976, 17 U.S.C. §§ 101 et seq. (the "Copyright Act"), PAVONIX has the exclusive right to use and reproduce its copyrighted works. 17 U.S.C. §§ 106(1), (4), and (5).

40. The source code for PAVONIX's CMIS program is copyrightable subject matter within the meaning of 17 U.S.C. § 102.

41. PAVONIX owns and has valid Copyright Registrations.

42. STATE used PAVONIX's source code without its permission to develop the JEB software.

43. STATE has used and continues to use the JEB software that utilizes PAVONIX's copyrighted source code.

44. STATE's conduct constitutes infringement, directly, contributorily, or by inducement, of PAVONIX's exclusive rights in its source code under the Copyright Act.

45. STATE's acts of infringement have been willful, intentional and purposeful, in disregard of and indifferent to the rights of PAVONIX.

46. STATE has benefited and continues to benefit greatly from its unauthorized and infringing use and copying of PAVONIX's copyrighted source code. STATE saved substantial amounts of time and money by using PAVONIX's source code to develop JEB.

47. As a direct and proximate result of STATE's infringement of PAVONIX's copyrights, PAVONIX has sustained enormous economic harm.

48. As a direct and proximate result of STATE's illegal actions, PAVONIX has sustained irreparable harm. STATE's conduct is causing and, unless enjoined by a Court, will continue to cause PAVONIX great and irreparable injury that cannot fully be compensated or measured by money damages. PAVONIX has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, PAVONIX is entitled to a permanent injunction requiring STATE to eliminate continued copyright infringement.

**AS AND FOR A THIRD CAUSE OF ACTION FOR
MISAPPROPRIATION OF TRADE SECRETS IN VIOLATION OF THE
CONNECTICUT UNIFORM TRADE SECRETS ACT (Conn. Gen. Stat. § 35-51 et seq.)**

1-38. PAVONIX repeats and realleges each and every allegation set forth in Paragraphs 1 through 38 above as if fully set forth herein.

39. Through their confidential relationship, STATE was provided access to confidential and proprietary information belonging to PAVONIX, including PAVONIX's Licensed Program and source code, including the overall architecture and function of the code and product documentation, and any and all copies, both paper and electronically-stored.

40. This proprietary and confidential information constitutes trade secrets owned exclusively by PAVONIX, as defined in Conn. Gen. Stat. § 35-51(d). PAVONIX derives independent economic value from these trade secrets. These trade secrets are not generally known to third parties, and are not readily ascertainable by proper means by third parties. PAVONIX keeps its trade secrets confidential and secret.

41. This confidential and proprietary information is highly guarded by PAVONIX, is unknown outside of PAVONIX's business, and is highly valuable to PAVONIX's business.

42. STATE had a contractual and fiduciary obligation to protect and not misappropriate this confidential, proprietary and trade secret information.

43. Upon information and belief, STATE knowingly and improperly used this confidential, proprietary and trade secret information in connection with the development of the JEB software, as described above and in the attached Expert Witness Report, thereby misappropriating PAVONIX's trade secrets.

44. The confidential, proprietary and trade secret information misappropriated by STATE is of extreme importance and value to PAVONIX, which has invested great effort, time

and expense in its development, to ensure PAVONIX a competitive advantage in the marketplace.

45. STATE benefitted greatly from PAVONIX's trade secrets. STATE saved substantial amounts of time and money by using PAVONIX's trade secrets, including the Licensed Program and the source code, to develop JEB.

46. As a direct and proximate result of STATE's misappropriation of PAVONIX's trade secrets, PAVONIX has sustained damages and injury.

47. As a direct and proximate result of STATE's illegal actions, PAVONIX has sustained irreparable damage and injury. STATE's conduct is causing and, unless enjoined, will continue to cause PAVONIX great and irreparable injury that cannot be fully compensated or measured by money damages. There is no adequate remedy at law to compensate for PAVONIX's damage and injury which STATE continues to inflict through its misappropriation.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR
VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT**

1-38. PAVONIX repeats and realleges each and every allegation set forth in Paragraphs 1 through 38 above as if fully set forth herein.

39. STATE's interaction with PAVONIX in the negotiations, management and payment for services under the Agreement involves "trade or commerce" as those terms are used in General Statutes § 42-110b, et seq.

40. Subsequent to entering into the Agreement, STATE engaged in unfair and deceptive acts or practices in the conduct of trade or commerce in violation of the Connecticut Unfair Trade Practices Act, General Statutes § 42-110b (a), in one or more of the following ways:

(a) In that STATE has used and continues to use without authorization PAVONIX's copyrighted material and trade secret information, infringed PAVONIX's intellectual property rights, misappropriated PAVONIX's trade secrets, and willfully and maliciously breached its agreement with PAVONIX.

41. STATE's aforesaid conduct is immoral, unethical, oppressive and/or unscrupulous.

42. As a result of STATE's aforesaid unfair and deceptive acts and practices in violation of General Statutes § 42-110b, PAVONIX has suffered an ascertainable loss of money, and irreparable harm.

WHEREFORE, the Plaintiff requests:

AS TO THE FIRST COUNT

1. That the Claims Commissioner authorize PAVONIX (MASSACHUSETTS), INC. f/k/a SOFTSCAPE, INC. to sue STATE in state or federal court for:

- a. Money damages in an amount to be proven at trial but not less than \$1,000,000;
- b. Costs of this action;
- c. Interest;
- d. An injunction and an order of specific performance that STATE, its agents and employees, and those acting on its behalf, cease copying PAVONIX's Licensed Program; cease use of PAVONIX's Licensed Program and proprietary and confidential information, or any derivative works, or works that replicate the Licensed Program; cease disclosing and/or distributing the Licensed Program to third parties; cease modifying the Licensed Program; and cease use of the CMIS system outside the scope of and in violation of the Agreement's enterprise-wide license; and
- e. Such other and further relief as a court may deem just and proper.

2. Such other and further relief as the Claims Commissioner may deem just and proper.

AS TO THE SECOND COUNT

1. That the Claims Commissioner authorize PAVONIX (MASSACHUSETTS), INC. f/k/a SOFTSCAPE, INC. to sue STATE in state or federal court for:

- a. An injunction that STATE, its agents and employees, and those acting on its behalf, cease copying PAVONIX's copyrighted Licensed Program including the CMIS source code; cease use of PAVONIX's copyrighted Licensed Program and copyrighted, proprietary and confidential information, or any derivative works, or works that replicate the Licensed Program; cease disclosing and/or distributing the Licensed Program to third parties; and cease modifying the Licensed Program;
 - b. Money damages in an amount to be proven at trial but not less than \$1,000,000;
 - c. Costs of this action;
 - d. Interest; and
 - e. Such other and further relief as a court may deem just and proper.
2. Such other and further relief as the Claims Commissioner may deem just and proper.

AS TO THE THIRD COUNT

1. That the Claims Commissioner authorize PAVONIX (MASSACHUSETTS), INC. f/k/a SOFTSCAPE, INC. to sue STATE in state or federal court for:
 - a. An injunction that STATE, its agents and employees, and those acting on its behalf, cease copying PAVONIX's trade secrets, including the Licensed Program; cease use of PAVONIX's trade secrets, including the Licensed Program and proprietary and confidential information, or any derivative works, or works that replicate the Licensed Program; cease disclosing and/or distributing PAVONIX's trade secrets, including the

Licensed Program to third parties; and cease modifying PAVONIX's trade secrets, including the Licensed Program;

- b. Money damages pursuant to Connecticut General Statutes § 35-53 (a) in an amount to be proven at trial but not less than \$1,000,000;
- c. Punitive damages pursuant to Connecticut General Statutes § 35-53 (b) in an amount not exceeding twice the award made under Connecticut General Statutes § 35-53(a);
- d. Attorneys' fees pursuant to Connecticut General Statutes § 35-53 (b);
- e. Costs of this action;
- f. Interest; and
- g. Such other and further relief as a court may deem just and proper.

2. Such other and further relief as the Claims Commissioner may deem just and proper.

AS TO THE FOURTH COUNT

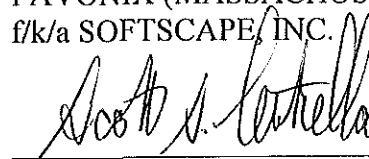
1. That the Claims Commissioner authorize PAVONIX (MASSACHUSETTS), INC. f/k/a SOFTSCAPE, INC. to sue STATE in state or federal court for:

- a. Money damages in an amount to be proven at trial but not less than \$1,000,000;
- b. Attorneys' fees pursuant to General Statutes § 42-110g;
- c. Punitive damages pursuant to General Statutes § 42-110g;
- d. Prejudgment and postjudgment interest; and
- e. Such other and further relief as a court may deem just and proper.

2. Such other and further relief as the Claims Commissioner may deem just and proper.

THE PLAINTIFF,
PAVONIX (MASSACHUSETTS), INC.
f/k/a SOFTSCAPE, INC.

BY:

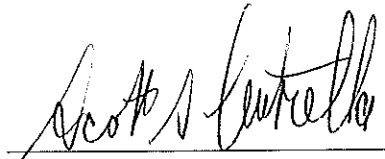


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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed on November 2, 2012, to all
counsel and pro se parties of record:

Gary W. Hawes, Esq.
Assistant Attorney General
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06106



Scott S. Centrella