

AGREEMENT FOR ATTORNEY SERVICES  
FOR THE \_\_\_\_\_ JUDICIAL CIRCUIT

This Agreement entered into by and between the Justice Administrative Commission, an agency of the State of Florida (JAC), and \_\_\_\_\_ an attorney (Attorney), and \_\_\_\_\_ a legal entity (Legal Entity). For purposes of this Agreement, Attorney means any individual attorney or legal entity, such as a law firm or partnership registered with the Florida Department of State, approved pursuant to section 27.40, Florida Statutes, to provide legal services for indigent persons. For compensation and tax reporting purposes, payments pursuant to this Agreement shall be made payable only to the holder of the tax identification number designated at the bottom of this Agreement. Payment by JAC under this Agreement may only be made to Attorney or the Legal Entity. The obligations of this Agreement apply equally to Attorney and Legal Entity. Legal Entity is responsible for ensuring that Attorney knows and understands the rights and responsibilities of this Agreement and has been selected pursuant to section 27.40 for court-appointed work. Any breach of a provision of this Agreement by Attorney under the authority or supervision of Legal Entity shall also constitute a breach of this Agreement by Legal Entity. If Legal Entity is the party approved pursuant to section 27.40 to be appointed to cases, this Agreement is the basis under which the services of Attorney shall be provided.

In consideration of the mutual covenants and provisions contained herein, the parties agree as follows:

This Agreement supersedes and terminates all prior Agreements for Attorney Services between Attorney and JAC for court appointments pursuant to section 27.40.

I. TERM

The term of this Agreement shall be for a period beginning on the date of execution by JAC through June 30, 2011, unless terminated sooner as provided herein. If it becomes necessary to replace this Agreement with another Agreement, then the new Agreement shall supersede and terminate this Agreement.

II. SERVICES

1. Attorney contracts with JAC to provide legal services for indigent person(s) constitutionally or statutorily entitled to the appointment of counsel for the categories of cases as provided by the Florida Statutes and the General Appropriations Act. JAC shall not provide compensation for any category of case not listed in the Florida Statutes and the General Appropriations Act. Attorney shall not seek compensation or reimbursement by JAC for fees, costs or expenses except for those categories of cases specifically delineated in the Florida Statutes and the General Appropriations Act. The indigent person(s) is deemed to be the client (Client) of Attorney or Legal Entity appointed by the court.

2. Attorney shall personally perform the legal services required for the case. Attorney shall at all times comply with all requirements of the Florida Statutes, the Rules of Professional Conduct, the rules regulating The Florida Bar, and the practice and procedures of courts within the Circuit. Attorney may not reassign or subcontract any appointed case or portion thereof to another attorney or bill for work performed by another attorney. This limitation on subcontracting, reassigning, or billing shall include associates or partners of Attorney's law firm regardless of whether the associate or partner is on the registry. Attorney affirmatively waives the right to seek compensation for work performed by any other attorney. Attorney shall not bill for work performed by a paralegal, secretary or other similar clerical office support, legal assistant, administrative assistant, or any other employee of Attorney's law practice. Attorney shall not bill for clerical or secretarial work, or work of a similar nature, performed by Attorney. Attorney shall not bill for overhead expenses either directly or indirectly through a due process provider. Overhead expenses include but are not limited to expenses associated with postage, internal or in-house copying, telephone charges including long distance and collect calls, and computerized research services such as Westlaw and Lexis/Nexis. Attorney shall not bill for purchase of office equipment, office supplies, legal materials, books, clothing, personal items, haircuts, manicures, or other such personal services for the client. Attorney may only be compensated for services reasonably necessary for defense of the case.

3. Attorney shall provide to Client all professional legal services reasonably required related to pending matters from the time of appointment through conclusion. When appropriate, Attorney agrees to file a notice of appeal and to take such other action as may be required to protect the Client's interests in accordance with Florida's Rules of Procedure.

4. Attorney shall provide competent representation to the Client.

5. Attorney shall forward to JAC a copy of the Court's order of appointment that clearly indicates the name of the judge, the style of the case, and the case number. In criminal cases, Attorney shall forward to JAC a copy of the charging document and any sentence enhancing document with the order of appointment. If a charging document is never filed, the Attorney shall provide a copy of the face-sheet of the docket or other court document which delineates the charges against the defendant. In civil cases other than those brought under Chapter 39 or Chapter 63, the Attorney shall supply a copy of the pleading that initiated the case. Attorney shall indicate on orders appointing Legal Entity the name and The Florida Bar number of the attorney assigned to the case. Attorney shall provide the order of appointment and the charging document in criminal cases, or initial pleading in civil cases, within 30 days of the date of appointment. If there is a shortfall in appropriations for court-appointed counsel, JAC shall give priority in payment to those attorneys who have fully complied with the reporting requirements of this sub-paragraph.

### III. COMPENSATION

1. Attorney shall be paid in accordance with the schedule of fees prescribed by the Florida Statutes and the General Appropriations Act in effect at the time of Attorney's

date of appointment. For appointments prior to July 1, 2007, the rates established by the local Article V Indigent Services Committee will apply to the extent those rates are or remain consistent with Florida law. Attorney agrees and acknowledges that the compensation to be paid pursuant to this Agreement shall be the sole, exclusive, and full compensation to which Attorney shall be entitled for cases Attorney is appointed to pursuant to this Agreement.

2. For the cases compensated on a flat fee basis, if Attorney withdraws or discharges prior to the full performance of his or her duties through the completion of the case, the court shall presume that the attorney is not entitled to the payment of the full flat fee.

3. Overpayments by JAC of attorney fees, costs or expenses are subject to full recovery by JAC. The method of recovery is at the discretion of JAC and may include, but not be limited to, offsets against future payments, direct reimbursement of overpayment to JAC by Attorney, or any other remedies available to a creditor by law.

4. Except as provided in this Agreement, Attorney agrees to complete all cases assigned to Attorney, even though completion of the case may occur beyond the term of this Agreement. Compensation for cases that remain open beyond this Agreement shall be subject to this Agreement unless superseded by another agreement. At the time of entry of judgment or sentencing in each case appointed under this Agreement, Attorney shall be prepared to make a good faith estimate of the total amount of fees, costs, and related expenses as may be needed to protect the State's interest in recovery of costs under section 938.29, or section 985.203, Florida Statutes.

5. The State of Florida and JAC's performance and obligation to pay under this Agreement are contingent upon an annual appropriation by the Legislature. Further, JAC's performance under this Agreement is also contingent upon compliance by Attorney with JAC's Policies and Procedures for Court-Appointed Counsel (JAC Policies and Procedures).

6. For any case with a date of appointment on or after July 1, 2007, the procedures set forth in section 27.5304(12) constitute the sole method by which Attorney can seek compensation in excess of the flat fee authorized by the Florida Statutes and the General Appropriations Act or the statutory caps. For cases with a date of appointment prior to July 1, 2007, Attorney acknowledges and accepts that JAC has the right to an evidentiary hearing for any case in which Attorney seeks to exceed statutory limitations.

7. Attorney and/or Legal Entity shall designate who shall receive payment from JAC under this Agreement. Payment by JAC under this Agreement may only be made to Attorney or Legal Entity. Attorney and Legal Entity shall hold JAC harmless from any and all liability which might arise from any dispute or litigation as a result of a payment by JAC. This sub-paragraph does not authorize Legal Entity to assign work on the case to any other attorney other than an attorney who has entered into this Agreement.

8. For appointments on or after July 1, 2007, if Attorney intends to seek compensation in excess of the flat fee set forth in the General Appropriations Act,

Attorney agrees not to seek compensation at an hourly rate in excess of the hourly rates set forth in section 27.5304(12). For purposes of hourly billing, a capital case is any offense for which the potential sentence is death and the state has not waived seeking the death penalty at the time the Attorney is appointed to represent the Defendant and the Attorney is eligible and qualified to accept appointment to death penalty cases.

9. For appointments on or after July 1, 2007, the flat fee for capital cases including capital appeals only applies to any offense for which the potential sentence is or remains death and the state has not waived seeking the death penalty at the time the Attorney is appointed to represent the Defendant. In order to receive the flat fee for a capital case, Attorney must be eligible and qualified to accept appointment to death penalty cases. If a capital case appointment does not meet these criteria, then the case is considered a life felony or felony appeal for billing purposes.

#### IV. DUE PROCESS COSTS

1. Attorney acknowledges and agrees that due process costs are the sole responsibility of Attorney. JAC is not privy to any agreement between Attorney and due process providers and in no way accepts responsibility or liability for quality of service, terms and conditions, or any other aspects of any agreement between Attorney and service providers.

2. Pursuant to sections 27.425 and 27.5305 of the Florida Statutes, the rates for due process services are established annually in the General Appropriations Act. To the extent that there are no rates adopted by the General Appropriations Act for a type of service in a particular judicial circuit, JAC may adopt maximum rates which will be posted on the JAC website. For purposes of this Agreement, the phrase "Established Rates" is defined as the rates established annually in the General Appropriations Act and the rates established by JAC where there are no rates established by the General Appropriations Act. The Established Rates are subject to change and may be amended from time to time during the course of this Agreement. It is Attorney's responsibility to remain informed of changes and amendments to the Established Rates. The Established Rates shall be posted on JAC's website at [www.justiceadmin.org](http://www.justiceadmin.org).

3. JAC, as a courtesy to Attorney and at the sole discretion of JAC, may make payment directly to due process providers who have executed a contract with JAC. Payment by JAC directly or by reimbursement to Attorney for due process services shall only be made if the billing procedures and rates sought are in compliance with Florida Statutes, applicable court Administrative Orders, and JAC Policies and Procedures. If Attorney engages a due process vendor at rates in excess of the Established Rates, or in excess of higher rates specifically authorized by written court order, Attorney shall be subject to absorbing the difference between the applicable Established Rates or rates authorized by court order, and the rates billed by the vendor. JAC is entitled to notice and an opportunity to be heard prior to any court authorizing rates higher than the Established Rates.

4. Attorney agrees that if a due process vendor or other entity providing services to the defense does not have a contract with JAC or is unwilling to bill JAC directly then

Attorney shall pay the vendor or other entity and seek reimbursement from JAC as provided herein. Although a contract is generally not required for other state entities, a state entity must be willing to bill JAC directly in order for JAC to make direct payment to the vendor.

5. Attorney agrees to supply JAC with all necessary documentation required under this Agreement and JAC Policies and Procedures for JAC to process for payment any direct billings from due process providers. Attorney agrees to respond to any Billing Audit Deficiency related to a due process provider billing within 30 days of receipt of the Billing Audit Deficiency. The failure to provide necessary documentation required for payment of due process providers may result in JAC withdrawing the privilege of JAC making direct payment to due process providers. If Attorney or a due process provider fails to respond to a Billing Audit Deficiency or fails to provide necessary documentation within a reasonable period of time, then JAC may take appropriate action including, but not limited to, rejecting the bill for payment, issuing a letter of objection to payment, or paying the amount authorized under the Established Rates or applicable court order.

6. Except when prior court approval is not required pursuant to the express terms of the Florida Statutes or the General Appropriations Act or JAC Policies and Procedures, a motion for due process costs must be served upon JAC prior to a court entering an order authorizing or otherwise approving due process costs. Attorney agrees and acknowledges that the existence of an administrative order or local rules authorizing costs without prior court approval does not relieve an attorney from filing a motion seeking prior approval or authorization for due process costs. JAC is entitled to at least five business days' notice of any hearing set on a motion for due process costs. JAC's failure to respond to a motion for due process costs shall not be deemed a waiver of JAC's right to be heard regarding the authorization for due process costs. Attorney shall not seek to obtain a court order prior to obtaining a response from JAC. If Attorney obtains an order in violation of this subparagraph, Attorney agrees not to contest any motion to vacate filed by JAC.

7. JAC shall have standing to contest the authorization for any due process costs and the amount of said due process costs. Attorney shall have the burden to establish that the due process costs are reasonable and necessary to the defense of the case.

8. Any order authorizing the expenditure of due process costs must list the service(s) to be provided, the compensation rates for the due process providers where the rates sought exceed the Established Rates, and a maximum amount authorized for each service. Any order not containing this information is not sufficient for payment purposes.

9. A motion seeking authorization or additional funds for a private investigator, mitigation specialist, or an expert shall set forth the particularized need for the requested services based on the circumstances of the case.

10. Attorney acknowledges that any private investigator retained in this matter providing services in Florida must be licensed pursuant to Florida law. JAC is not

authorized to pay for any private investigator services provided in Florida by a person not properly licensed pursuant to Florida law.

11. Attorney agrees that the role of a private investigator is limited to providing investigative services such as locating and interviewing witnesses; locating and securing documents and other evidence relevant to the case; performing background checks; and researching any other factual issues relevant to the case such as credibility and character of witnesses. Where private service of process is authorized, an investigator can also serve subpoenas on ordinary non-law enforcement witnesses; however, the investigator can only bill the flat rates applicable for private service of process regardless of the amount of time spent serving the subpoena. Attorney agrees investigator is not a substitute for a paralegal or secretary and cannot be used to perform administrative tasks including, but not limited to, retrieving discovery from the state attorney; copying documents from a court file; delivering materials to the defendant; or any other tasks of a paralegal or secretarial nature.

12. Service of process upon witnesses should be through the sheriff unless the sheriff is unable or unavailable to provide service of process. Under section 57.081, the sheriff is available to provide service of process without prepayment in cases involving indigent persons. Attorney specifically agrees that the sheriff must be used to serve in-county law enforcement absent exceptional circumstances. In order to use a private process server to serve in-county law enforcement officers, Attorney must file with service upon JAC a motion setting forth the exceptional circumstances requiring use of a private process server.

13. Pursuant to section 28.345, Attorney is exempt from all court-related fees and charges assessed by the clerks of the circuit courts. As delineated in section 57.081, an indigent shall receive the services of the courts, sheriffs, and clerks, with respect to pending proceedings, despite his or her present inability to pay for these services including filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. Attorney is responsible for ensuring compliance with the terms of section 28.435 and section 57.081 including but not limited to (1) providing necessary documentation to the clerk of court or sheriff and (2) filing appropriate motions with the trial court to obtain such services pursuant to the exemption or without prepayment. JAC shall not reimburse Attorney, either directly or indirectly through a due process provider, for charges paid to the court, the sheriff or the clerk or court, in relation to services for which Attorney was statutorily exempt pursuant to section 28.435 or the indigent client was entitled to receive without prepayment pursuant to section 57.081.

14. If Attorney intends to procure due process services at rates higher than the Established Rates, Attorney must file a written motion setting forth the basis for the higher rate with service upon JAC. Attorney has the burden to establish that the particular due process service is necessary to the defense of the case and that Attorney made a diligent effort to find the service within the Established Rates. A prior authorization for a higher rate for the same or similar services in an unrelated

proceeding shall not relieve Attorney from diligent efforts in the case at issue. In order to obtain reimbursement, the order must contain a finding that the due process service is necessary to the defense of the case and that Attorney made a diligent effort to find the service within the Established Rates. Diligent effort includes, but is not limited to, evidence that Attorney sought the services of at least three providers willing to work on the case but none were willing to work at the Established Rates. Absent an order expressly authorizing a rate in excess of the Established Rates, JAC will only pay or reimburse for due process services at the Established Rates. If Attorney procures services at a higher rate, Attorney is solely responsible for paying the difference.

15. Attorney shall not seek authorization from the court for out-of-state experts or mitigation specialists, absent a showing that there are no such providers with appropriate skills or expertise available, first, in the county in which the case was filed and, second, in any other county in the State of Florida. If Attorney obtains an out-of-state due process provider without making such a showing, Attorney agrees not to request reimbursement for any travel expenses including compensation for travel time on behalf of the due process provider. An order authorizing the employment must be in writing and contain specific findings regarding the unavailability of a qualified in-state expert or mitigation specialist. The attorney shall submit a copy of the order to JAC.

16. JAC shall only pay for actual services provided by due process providers that are reasonably necessary for the defense of the case. JAC has no responsibility for and will not pay for any cancellation fees or loss of business charges.

17. JAC shall not prepay or provide a retainer for due process services. Attorney shall not seek to have JAC prepay or provide a retainer for due process services. If a due process provider requires prepayment or a retainer, Attorney shall pay the amount and seek reimbursement only after the due process provider has completed the services for which the prepayment or retainer was paid. Attorney shall only be reimbursed the amount necessary to compensate the due process provider at the appropriate hourly rate irrespective of the amount of the retainer.

18. JAC will not pay for any transcript that is not authorized by court order. The court order must be attached to the bill for said transcripts. Attorney must provide the court reporter with a copy of the order of appointment and the order authorizing the transcript. Upon receipt of a completed invoice from a court reporter, Attorney shall promptly review, sign, and forward the invoice to JAC for any bill in which JAC will directly pay the court reporter.

19. JAC may pay for the cost of preparing a transcript of a deposition only if Attorney secures an order from the court finding that preparation of the transcript is necessary, in which case JAC may pay for one original and one copy only. The order should reflect the name of the witness and the date of the deposition to be transcribed.

20. JAC may pay for the cost of one original transcript of any deposition, hearing, or other proceeding. Any other payment for a transcript of that same deposition, hearing, or other proceeding, regardless of whether the transcript is an additional original transcript or a copy, shall be at the rate paid for a copy of a transcript. This

subparagraph applies regardless of which state agency pays for the first original transcript.

21. Attorney shall reimburse JAC for any costs such as an interest charge, loss of prompt payment discount, or other costs or expenses to JAC due to delay in payment of a due process invoice attributable to Attorney's error or omission. Attorney shall attempt to resolve any dispute between Attorney and any due process providers without JAC intervention.

22. For capital cases in which State has not waived the death penalty, as soon as practicable after appointment, defense counsel shall set a hearing for the trial court to determine a reasonable budget for due process costs with notice to JAC of said hearing. This budget shall be based on the circumstances of the case, the amount needed to provide the defendant with the basic tools of defense as mandated by due process concerns under the state and federal constitutions, the amount appropriated for due process costs in the General Appropriations Act, and the amount the Office of Public Defender for the applicable circuit expends for similar capital cases. Attorney shall make diligent efforts to remain within this budget. Prior to authorizing expenditures in excess of this budget, Attorney will set the matter for hearing with notice to JAC. The provisions of this sub-paragraph are in addition to the other requirements for due process services set forth in this Agreement.

23. Attorney shall not obtain due process services for his or her court-appointed clients from a due process provider or other business entity of which Attorney or Attorney's spouse or child is an officer, partner, director, or proprietor or in which Attorney or Attorney's spouse or child, or any combination of them, has a material interest in any form whatsoever. Attorney shall not solicit or accept anything of value to Attorney, including a gift, loan, reward, promise of future employment, favor, or service, from a due process provider or other business entity who provides due process services to Attorney's court-appointed clients.

## V. QUALIFICATIONS OF ATTORNEY

1. Attorney represents that he or she is a member in good standing of The Florida Bar and meets at least the minimum experience and continuing education requirements as established pursuant to section 27.40, Florida Statutes.

2. Attorney shall notify JAC and the Chief Judge of the above referenced Judicial Circuit (Chief Judge) of any disciplinary action against Attorney or Legal Entity where probable cause has been found. Attorney shall notify JAC and the Chief Judge of the Judicial Circuit of all appointed cases in which there is a judicial finding that Attorney provided ineffective assistance of counsel.

## VI. LICENSES/FLORIDA BAR MEMBERSHIP

It shall be the sole responsibility of Attorney to comply with all applicable federal, state, county, and municipal statutes, ordinances, rules, and regulations in the performance of

Attorney's obligations under this Agreement. Attorney shall, throughout the term of this Agreement, be a member in good standing with The Florida Bar.

## VII.

The parties agree that this Agreement does not create the relationship of attorney and client between Attorney and JAC. This Agreement is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or association between JAC and Attorney. Attorney is, and shall at all times be deemed, an independent contractor and shall be wholly responsible for the manner in which Attorney performs the services required by the terms of this Agreement. Attorney exclusively assumes responsibility for the acts of Attorney's employees, agents, subcontractors, and all others acting at the direction of, or on behalf of, Attorney as they relate to the services to be provided under this Agreement. Attorney and Attorney's agents and employees shall not be entitled to any rights or privileges of employees of the State of Florida including, but not limited to, compensation insurance, malpractice insurance, and unemployment insurance, as a result of this Agreement.

## VIII. NO ASSIGNMENT

Attorney shall not delegate or assign this Agreement or compensation owed to Attorney under this Agreement. Attorney shall not assign or delegate any duties or work to another attorney unless that attorney is also appointed to that case. Attorney shall not bill for services rendered by another attorney and affirmatively waives the right to seek compensation for work performed by any other attorney.

## IX. NO PROHIBITION ON PRIVATE PRACTICE

Nothing in this Agreement shall preclude Attorney from representing privately retained clients provided that no private case shall be accepted that is likely to cause a conflict of interest with a case appointed to Attorney under this Agreement.

## X. BILLING REQUIREMENTS FOR REIMBURSEMENT OF ATTORNEY'S FEES, COSTS, AND RELATED EXPENSES

1. Attorney shall submit to JAC all bills for attorney's fees, due process costs, or related expenses within ninety days after final disposition of the case. The filing of an appeal does not stay the time for submitting a bill relating to representation at the lower court level even if Attorney is appointed to represent the Client on appeal. For any bill submitted to JAC more than 90 days after final disposition, in accordance with section 27.5304, the allowable attorney's fees, due process costs, or related expenses shall be reduced by 15 percent. The reduction is a contractual penalty for failing to submit a bill in a timely fashion as required by section 27.5304. A bill shall not be deemed submitted to JAC until all of the documents required under JAC Policies and Procedures have been received by JAC. For cases that reached final disposition prior to May 24, 2007, May 24, 2007 shall be deemed to be the date of final disposition for purposes of this sub-paragraph.

2. For cases for which disposition occurs on or after July 1, 2010 and where any bill is submitted to JAC more than 1 year after final disposition, in accordance with section 27.5304, the allowable attorney's fees, due process costs, or related expenses shall be reduced by 50 percent. The reduction is a contractual penalty for failing to submit a bill in a timely fashion as required by section 27.5304. A bill shall not be deemed submitted to JAC until all of the documents required under JAC Policies and Procedures have been received by JAC.

3. For cases for which disposition occurs on or after July 1, 2010 and where any bill is submitted to JAC more than 2 years after final disposition, in accordance with section 27.5304, the allowable attorney's fees, due process costs, or related expenses shall be reduced by 75 percent. The reduction is a contractual penalty for failing to submit a bill in a timely fashion as required by section 27.5304. A bill shall not be deemed submitted to JAC until all of the documents required under JAC Policies and Procedures have been received by JAC.

4. For purposes of this Agreement, the term "disposition" means:

a. At the trial court level, that the court has entered a final appealable judgment, unless rendition of judgment is stayed by the filing of a timely motion for rehearing. The filing of a notice of appeal does not stay the time for submission of an intended billing; and

b. At the appellate court level, that the court has issued its mandate.

5. Attorney shall comply with all the requirements of this Agreement, Florida Statutes, JAC Policies and Procedures, Administrative Orders and applicable court orders, and shall submit requests for compensation on applicable JAC forms to obtain compensation for services rendered pursuant to this Agreement. The JAC Policies and Procedures are incorporated into this Agreement by reference and can be found at JAC's website at [www.justiceadmin.org](http://www.justiceadmin.org). JAC Policies and Procedures may be amended from time to time during the course of this Agreement. It is Attorney's sole responsibility to remain informed of changes and updates to JAC Policies and Procedures.

6. If Legal Entity is appointed to a case and Attorney is assigned to the case, invoices presented by Legal Entity shall be certified by Attorney. Attorney shall bill for all cases under one tax identification number. Attorney shall execute a new contract if Attorney changes tax identification number or moves to a new firm. Any sharing of compensation with prior firms or future firms is the responsibility of Attorney and Legal Entity.

7. Attorney invoices for fees, costs or expenses shall be supported by documentation that includes, but is not limited to, the Order of Appointment, the charging document or other initial pleading, and the disposition documents. For appeals, Attorney shall supply a paper or electronic copy of the briefs filed by Attorney in the case.

8. For appointments prior to July 1, 2007, in cases for which hourly billing is authorized, Attorney shall also provide an hourly statement that comports with the requirements set forth in JAC Policies and Procedures. Attorney shall only bill in hours and tenths of hours and services shall be listed in chronological order beginning with the date of Attorney's appointment to the case. Attorney shall provide detailed description for each service or activity listed on the invoice, including but not limited to, the date of service, the increment of time associated with the service or activity, the identification of documents and materials, the number of pages, and the names of deponents and witnesses interviewed, as applicable. If the reported activity involves more than one assigned case, Attorney's time shall be divided, as appropriate, among the cases even if one or more of said cases is subject to a flat fee. In no event may Attorney's time exceed the total actual clock time required for the reported activity. Attorney shall also provide a copy of the Court's progress docket. Attorney shall not bill for services in a single entry across multiple dates.

9. When seeking compensation on an hourly basis, administrative activities do not constitute services for which Attorney may seek compensation. For purposes of this Agreement, administrative activities include, but are not limited to the following:

- a. Services performed by support staff, paralegals, law clerks, and secretaries.
- b. Time related to or in furtherance of billing, or time related to defending a disputed bill.
- c. Time spent reviewing invoices of due process providers.
- d. Time spent preparing motions for attorney's fees and costs, due process costs, and/or related expenses and time spent in hearing on said motions.
- e. Time spent on activities not reasonably related to the merits of the underlying case including time spent preparing routine documents such as notices of unavailability, calendaring hearings, setting depositions, and providing instructions to staff.
- f. Time spent on office or administrative functions including secretarial and administrative work performed by any person, including Attorney.
- g. Time spent defending against a bar complaint, 3.850 motion, or other grievance filed by the client.
- h. Time spent on any other activity not reasonably related to the defense of the case.
- i. Time spent on correspondence with JAC and conversations with JAC personnel.

Attorney agrees not to seek hourly compensation for any such services including but not limited to the services listed above.

10. If Attorney provides services related to more than one case, Attorney shall apportion the time spent among all the cases to which the services related regardless of how the cases are billed. If Attorney is in court on multiple cases, the time spent shall be apportioned among all the cases regardless of the manner in which the cases are billed. Attorney shall not bill all the time to a single case on an hourly basis and then seek flat fee compensation on the other cases.

11. If Attorney has been appointed to more than one case for the same defendant within a 30 day period or more than one case for the same defendant reaches final disposition within a 30 day period, Attorney shall bill simultaneously for all cases appointed to that defendant. For purposes of the contractual penalties for untimely billing, the date of final disposition shall be the date the last case reaches final disposition. Attorney shall not seek to bill one or more of the cases on a flat fee basis while seeking unusual and extraordinary compensation as to other cases appointed to the same defendant. Attorney must either bill all cases on a flat fee basis or submit a single intended billing for all cases seeking unusual and extraordinary compensation.

12. Attorney shall not seek a court order for payment nor accept payment for a billing before JAC has completed review of a properly presented invoice. The JAC billing audit deficiency form is an instrument used to convey that a billing is deficient and does not serve as JAC's Letter of Objection or No Objection to any billing submitted by Attorney. Attorney shall not file a motion for compensation based upon a billing audit deficiency form. Attorney shall not file a motion for attorney's fees, costs, and/or related expenses until Attorney receives a Letter of Objection or No Objection from JAC. A copy of the Letter of Objection or No Objection must be attached to the motion. If Attorney obtains an order in violation of this subparagraph, Attorney agrees not to contest any motion to vacate filed by JAC. Attorney will not seek to enforce or otherwise compel performance by JAC of an order obtained in violation of this subparagraph.

13. JAC will review all attorney invoices for fees, costs or expenses simultaneously in capital cases where a court-appointed lead and a co-counsel have been appointed. It shall be the lead and co-counsel's responsibility to coordinate the submission of their bills. Attorney agrees not to set a motion for hearing until JAC has received and reviewed billings from both attorneys.

14. Attorney shall not seek compensation or reimbursement by JAC for fees, costs or expenses associated with the defense of a bar grievance, nor shall Attorney seek a court order for payment or accept payment for such fees, costs, or expenses.

15. Except for witness fees authorized by law, Attorney shall not seek compensation or reimbursement by JAC for fees, costs, or expenses associated with being called as a witness in any proceeding related to his or her services under this Agreement including but not limited to motions for postconviction relief.

16. Attorney shall provide JAC with a minimum of five business days' notice of any hearing on a motion relating to attorney's fees, costs, or related expenses.

17. Attorney agrees to not object or otherwise contest any request by JAC to appear telephonically at any hearing or other judicial proceeding related to attorney's fees, due process costs or related expenses including any evidentiary hearing on a motion seeking fees or costs in excess of the flat fee or statutory limitations.

18. Attorney shall maintain appropriate documentation, including a contemporaneous current and detailed hourly accounting of time spent representing the Client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in section 27.5304 and the General Appropriations Act. These records and documents are subject to review by JAC, subject to the attorney/client privilege and work product privilege. Attorney shall maintain the records and documents in a manner that enables the attorney to redact information subject to a privilege in order to facilitate and not impede JAC's review of the records and documents. A finding by JAC that Attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act, for failing to maintain detailed and contemporaneous records or for failing to allow JAC to inspect those records shall be presumed to be valid, unless a court concludes that JAC's finding is not supported by competent and substantial evidence.

#### XI. ADDITIONAL BILLING REQUIREMENTS WHEN ATTORNEY SEEKS COMPENSATION IN EXCESS OF THE FLAT FEE OR STATUTORY CAPS

1. If Attorney seeks compensation in excess of the flat fee or statutory limitations, Attorney shall identify the factual and legal issues, in a separate explanatory statement attached to the JAC voucher, that render the case extraordinary and unusual, and thus make the case eligible for compensation above the flat fee pursuant to Florida law. This statement shall include, but not be limited to, the number of witnesses, the number of days of trial, and the legal issues presented to the court. This statement is subject to the Affidavit Verifying Attorney's Fees, Costs or Related Expenses included on the JAC voucher cover and executed by Attorney.

2. If Attorney seeks to bill hourly under section 27.5304(12), Attorney shall propose an hourly rate not to exceed the rate authorized pursuant to Florida law. Said hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory. The compensation calculated by using the hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory.

3. If Attorney seeks compensation in excess of the flat fee pursuant to section 27.5304(12), Attorney shall provide an hourly statement that comports with the requirements set forth in this Agreement and JAC Policies and Procedures. Attorney shall provide a copy of the Court's progress docket.

4. Attorney shall also provide any and all documentation that Attorney intends to provide to the court in support of a motion for compensation in excess of the flat fee or

statutory maximums. Attorney shall also provide a written report from any expert that Attorney intends to use as a witness at the evidentiary hearing on said motion. Failure to provide JAC with said documentation or written report shall be deemed a waiver of the right to present said documentation or expert at the evidentiary hearing.

5. For cases appointed on or after July 1, 2007, in assessing whether a case involves unusual and extraordinary effort, all cases for the same client appointed within a 30 day period reaching final disposition within a 30 day period shall be considered. Attorney shall not seek to bill one or more of the cases on a flat fee basis while seeking unusual and extraordinary compensation as to other cases appointed to the same client. Attorney must either bill all cases on a flat fee basis or submit a single intended billing for all cases seeking unusual and extraordinary compensation.

6. For dependency, termination of parental rights, and other civil cases appointed on or after July 1, 2007, Attorney agrees not to seek compensation in excess of the flat fee set forth in General Appropriations Act unless the number of hours worked on the case or cases appointed to the same client would allow for payment of at least double the total flat fee at the hourly rate of \$75.00 per hour. Attorney affirmatively waives the right to seek compensation in excess of the flat fee under the General Appropriation Act for any case or cases appointed to the same client unless the amount payable on an hourly basis at a rate of \$75.00 per hour is at least double the flat fee under the General Appropriations Act.

7. Any requirements for extraordinary billings set forth herein or in statute are minimum thresholds in order to seek compensation in excess of the flat fee established in the General Appropriations Act. Attorney still has the burden to demonstrate to the court through competent substantial evidence that the case involved unusual and extraordinary effort. The meeting of a minimum threshold as set forth herein or in statute does not necessarily constitute competent substantial evidence of an extraordinary and unusual effort.

## XII. RECORD RETENTION/ INSPECTION

1. Attorney shall keep contemporaneous detailed records to enable JAC to verify all costs, expenses, and Attorney's time expended representing all Clients in cases appointed under this Agreement. The records shall include supporting documentation necessary to adequately evaluate and substantiate payments made under this Agreement. The attorney shall maintain appropriate documentation, including contemporaneous and detailed hourly accounting of time spent representing the client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act.

2. These records and documents are subject to review by the Justice Administrative Commission, subject to the attorney-client privilege and work-product privilege. Attorney may redact information from the records and documents only to the extent necessary to comply with the privilege.

3. Attorney shall maintain the records and documents in a manner that enables the attorney to redact information subject to a privilege in order to facilitate and not impede JAC's review of the records and documents.

4. Upon JAC's issuance of a notice of inspection of records and documents as to a particular case, Attorney shall deliver to JAC, or a designated agent, copies of any and all contemporaneous billing records related to that case within a reasonable period of time. This time period shall not exceed 30 days unless an extension is granted by JAC in writing. Attorney's failure to provide the contemporaneous billing records within a reasonable period of time shall be deemed a refusal to allow JAC to inspect the contemporaneous billing records.

5. Attorney agrees to retain and make available for inspection and audit at Attorney's place of business, upon reasonable notice, all books, statements, ledgers and other financial records relating to services under this Agreement for a period of five (5) years from the date of each payment, or until all Federal or State audits that may relate to each payment are complete for the applicable fiscal year, whichever is later, unless ordered sealed by the Court. For purposes of this subparagraph, 14 days notice shall be deemed reasonable notice. The failure to allow JAC to inspect such records upon reasonable notice shall be deemed a refusal to allow JAC to inspect those records as to any unpaid case that was pending as of the date of the inspection.

6. If Attorney fails, refuses, or declines to permit JAC to review documentation for a case as provided in this paragraph, Attorney waives the right to seek, and JAC shall not pay, compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act for that case.

7. A finding by JAC that Attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act, for failing to maintain detailed and contemporaneous records or for failing to allow JAC to inspect those records shall be presumed to be valid, unless a court concludes that JAC's finding is not supported by competent and substantial evidence.

### XIII. ELECTRONIC COMMUNICATION AND ELECTRONIC FUNDS TRANSFER

1. Attorney shall maintain sufficient internet capability, including an e-mail account, to communicate with JAC under this Agreement. Attorney agrees to accept communications including billing audit deficiency forms and Letters of Objection or No Objection via e-mail.

2. Attorney agrees to accept legal pleadings including but not limited to responses to motions for attorney's fees, due process costs, or related expenses either by e-mail or by facsimile. Attorney waives the mailing of any such legal pleadings as a prerequisite to legal service of any legal pleading received either by e-mail or by facsimile.

3. By January 1, 2011, Attorney shall participate in a direct-deposit program under which Attorney authorizes the transfer of funds electronically to an account in the

Attorney's or Legal Entity's name at a federal-chartered or state-chartered financial institution. If Attorney seeks an exemption from this provision, Attorney must submit in writing a request for exemption specifically delineating why Attorney cannot comply with this provision. JAC may exempt Attorney from compliance with this provision only if JAC determines that participation in a direct-deposit program creates a financial hardship for Attorney.

#### XIV. TERMINATION

1. JAC shall have the right to terminate this Agreement immediately if, in its sole opinion, Attorney or Attorney's agents or employees fail to comply with the terms of this Agreement. Such failure shall constitute a material breach of this Agreement by Attorney. In the event of breach of duty in a case by Attorney, Attorney shall not be entitled to payment of Attorney's fees, costs, and expenses for work performed except by court order.
2. Except as provided in Paragraph 1, upon thirty (30) days written notice, JAC or Attorney may, without cause, terminate this Agreement. Following termination of this Agreement pursuant to this paragraph, if Attorney is permitted by the Court to withdraw from appointed cases, Attorney will be compensated pursuant to section 27.5304.
3. Attorney is not eligible for any new appointments to cases in the event of termination of this Agreement, unless JAC executes a new agreement with Attorney. Attorney shall notify the Chief Judge and the Court of the termination of this Agreement. If Attorney is appointed to a case after termination of this Agreement, Attorney shall not seek payment for fees, costs, or related expenses for such case for Attorney, or for due process service providers, either directly or indirectly, from JAC and shall not motion the Court for the payment of same by JAC. Such appointments will be considered pro bono work.
4. Notice of termination of this Agreement must be in writing and sent by certified or registered United States mail with return receipt requested to the last known address. Any notice of termination of this Agreement by either JAC or Attorney shall be copied to the Chief Judge.
5. JAC, at its sole discretion, may suspend this Agreement pending Attorney's failure to maintain status in good standing with The Florida Bar for infractions that are curable. If the Chief Judge suspends Attorney, JAC shall suspend this Agreement. Attorney is not eligible for any new appointments to cases during the period of suspension. Attorney shall notify the Court of the suspension of this Agreement. If Attorney is appointed to a case during the period of suspension, Attorney shall not seek payment for fees, costs, or related expenses or for due process service providers for such case, either directly or indirectly from JAC or via a motion to the Court.

#### XV. NO WAIVER/GOVERNING LAW

1. No waiver by either party of any existing default by the other party shall be deemed to waive any subsequent default. All rights hereunder are cumulative, not

alternative, and are in addition to any other rights given by law. The validity, construction, and interpretation of this Agreement shall be governed by the laws of the State of Florida and the Florida Constitution.

2. Any action arising over any dispute over performance or other terms of this Agreement may only be maintained in the Florida state courts. Venue for all equitable or legal actions arising from or related to this Agreement wherein JAC or the State of Florida is a named party shall be in the appropriate state court in Leon County, Florida. The parties waive any right to jury trial.

3. For purpose of the applicable statute of limitation under general law, any cause of action for compensation in relation to attorney's fees, due process costs, or related expenses for a court-appointed case accrues on the date the case reached final disposition notwithstanding any appeals. For purposes of this paragraph final disposition means:

a. At the trial court level, that the court has entered a final appealable judgment, unless rendition of judgment is stayed by the filing of a timely motion for rehearing. The filing of a notice of appeal does not stay the time for submission of an intended billing; and

b. At the appellate court level, that the court has issued its mandate.

4. Attorney waives the right to seek compensation either directly or indirectly on behalf of due process providers in relation to attorney's fees, due process costs, or related expenses once the statute of limitation has expired.

#### XVI. SEVERABILITY

The terms and conditions of this Agreement shall be deemed to be severable. If any clause, term, or condition herein shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions. Notwithstanding any such determination, this Agreement shall continue in full force and effect unless a particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

#### XVII. AMENDMENT OF AGREEMENT

This Agreement expresses the understandings of the parties concerning all matters covered. No changes or additions to this Agreement or the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless in the form of a written amendment executed by the parties.

#### XVIII. MISCELLANEOUS PROVISIONS

1. Attorney shall provide JAC with any pleading, motion, or other legal document a minimum of five business days before any hearing on said pleading, motion, or other

legal document. Attorney shall provide JAC with copies of all attachments to said pleading, motion, or other legal document.

2. In Chapters 39 and 63 cases, Attorney shall be compensated only when appointed to represent an indigent parent as court-appointed counsel. Attorney shall not be compensated if Attorney is appointed to represent a legal guardian or a step-parent or is appointed as attorney-ad-litem for a parent. Attorney also shall not be compensated if Attorney is appointed to represent a child or children in Chapter 39 cases.

3. Attorney agrees to be responsible for the management and direction of all legal services pursuant to this Agreement.

4. Within 30 days of a change of affiliation of Attorney from Legal Entity, this Agreement shall be terminated.

5. Attorney shall affix Attorney's name and bar number on all communications addressed to JAC. Attorney shall keep JAC informed at all times of Attorney's current name, address, telephone and facsimile numbers, email address, and tax identification number. Notification of changes shall be provided in writing to JAC. Attorney shall be responsible for keeping JAC informed of the name, address, telephone and facsimile numbers, email address, and tax identification number of due process service providers utilized by Attorney.

6. For the purposes of this Agreement, the term "case" shall be defined as each matter assigned a case number by the Clerk of the Court to a Client. However, assignment of a case number solely for tracking purposes by the clerk may not constitute a case for payment purposes. In this event the Information or Indictment shall identify the case(s) to which Attorney may be appointed. All cases which are consolidated, multiple counts, combined or collapsed into another case number shall be considered one case under the surviving case number. In criminal cases, Attorney shall be compensated at the rate provided for the most serious offense for which Attorney represented the Client. In an on-going Chapter 39 or Chapter 63 case, an additional child is not a new appointment or a new case for billing purposes. In a Chapter 39 or Chapter 63 case, if more than one parent is represented by the same attorney, the appointment shall be considered one case appointment for billing purposes.

7. If the Court appoints a Legal Entity to provide legal representation for a Client, Attorney assigned to the case by the Legal Entity shall certify all fees, costs, and related expenses on behalf of Legal Entity and any billing to JAC. The assigned attorney shall be qualified and approved pursuant to section 27.40, Florida Statutes, for the category of case to which Attorney is assigned. Attorney shall execute a contract with JAC.

8. For any case subject to a flat fee, if Attorney withdraws or is discharged prior to completion of the case, Attorney shall only be entitled to a portion of the flat fee to be determined by the court. The total compensation for Attorney and any and all subsequent attorneys may not exceed the flat fee established by Florida law.

9. Payment for a criminal or civil case is contingent on the Office of Public Defender and the Office of Criminal Conflict and Civil Regional Counsel being authorized to withdraw or to discharge from the case or a court sua sponte finding a conflict precluding representation when the respective offices are authorized to provide representation. If said offices have not withdrawn or discharged or a court has not sua sponte found a conflict, Attorney waives all right to seek payment from JAC for attorney's fees, costs, or related expenses. Attorney is responsible for verifying that said offices have withdrawn or discharged from the case or a court has sua sponte found a conflict before commencing representation. The withdrawal or discharge of said offices from an earlier proceeding shall not create any presumption that said offices continue to have a conflict for later proceedings including, but not limited to, appeals, violation of probation or community control proceedings, motions for post-conviction relief, and any other extraordinary remedies for which court-appointed counsel is authorized under Florida law.

10. If Attorney discovers any information that would raise a concern as to the ongoing indigency of the Client, then the Attorney shall either advise the court and JAC of the changed circumstances or move to withdraw.

11. After final disposition, if the Client wishes to appeal, prior to discharge, Attorney shall file the appropriate documents with the Court and request the Court make a finding as to whether the Client remains indigent for purposes of appeal. Attorney shall advise the court of any changed circumstances that involve the issue of indigency. Where the Client wishes to appeal, Attorney shall comply with the requirements of the Florida Rules of Appellate Procedure including, but not limited to, filing a notice of appeal, a statement of judicial acts to be reviewed, directions to the clerk, and designations for transcription of those portions of the proceedings necessary to support the statement of judicial acts to be reviewed. Attorney shall take those steps necessary to ensure and verify that the record is properly transmitted to the appellate court regardless of the date of Attorney's discharge.

12. If Attorney files a notice of appeal on behalf of a Client, Attorney shall take those steps necessary to ensure that the appellate record is prepared including the filing of a designation of the record on appeal. In designating hearings for transcription, Attorney shall only designate those hearings at which Attorney reasonably believes that reversible error may have occurred. In criminal cases, these hearings typically include jury selection, trial, sentencing, and other proceedings necessary to support the issues on appeal as set forth in the statement of judicial acts to be reviewed. In Chapter 39 proceedings, these hearings typically include adjudicatory hearings, dispositional hearings, and other proceedings necessary to support the issues on appeal. In Chapter 39 proceedings, Attorney shall not have hearings such as judicial reviews and status conferences transcribed unless appellate counsel specifically requests that those proceedings be transcribed.

13. For any death penalty case in which the court has appointed Attorney as co-counsel, if the state thereafter waives the death penalty, Attorney shall immediately move to withdraw from the case. A copy of the motion shall be served upon JAC at least five business days before the hearing on said motion. If Attorney fails to move to

withdraw, Attorney shall not seek nor accept compensation for work performed after the death penalty was waived.

14. To obtain reimbursement for travel expenses for Attorney, due process providers, or witnesses, Attorney must follow the requirements set forth in section 112.061, Florida Statutes; the Department of Financial Services (DFS) Regulations; and JAC Policies and Procedures. JAC's specific travel procedures are posted on the JAC's website and Attorney shall abide by these procedures. Attorney may bill only for authorized travel expenses. Attorney must obtain a court order identifying the approved traveler and the purpose of the travel. Any time spent by Attorney or a due process provider making travel arrangements and preparing travel vouchers is considered clerical work and is therefore not billable. Attorney must submit a completed DFS approved travel voucher with any request for reimbursement for travel expenses. Failure to submit a properly completed travel voucher constitutes a waiver of any right to obtain travel expenses.

15. Attorney travel should be limited to travel necessary for the defense of the case. Attorney should consider alternatives to attorney travel whenever feasible. For depositions for which appearing in person would result in significant travel expenses or travel time, Attorney should consider alternatives to appearing in person such as conducting the deposition through the use of communications equipment including videoconferencing technology or telephones.

#### XIX. ENTIRE AGREEMENT

This Agreement supersedes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

XX. THIS AGREEMENT CONSTITUTES A UNIFORM STATEWIDE AGREEMENT PROMULGATED BY JAC PURSUANT TO S. 27.40, F.S. THIS AGREEMENT MAY NOT BE ALTERED, MODIFIED OR AMENDED EXCEPT THROUGH A SEPARATE AGREEMENT EXECUTED BY ATTORNEY AND AN AUTHORIZED REPRESENTATIVE OF JAC. IF ANY TERM OF THIS AGREEMENT IS ALTERED, MODIFIED, AMENDED OR OTHERWISE CHANGED TO DEVIATE FROM THE TERMS OF THE UNIFORM STATEWIDE AGREEMENT PROMULGATED BY JAC, THEN THIS AGREEMENT IS VOID AB INITIO IN ITS ENTIRETY NOTWITHSTANDING ANY EXECUTION BY AN AUTHORIZED REPRESENTATIVE OF JAC. ALTERATIONS, MODIFICATIONS, OR AMENDMENTS INCLUDE ANY HANDWRITTEN OR TYPOGRAPHICAL CHANGE OR DEVIATION OF ANY OF THE TERMS OF THE UNIFORM STATEWIDE AGREEMENT. PERFORMANCE BY JAC UNDER THIS AGREEMENT SHALL UNDER NO CIRCUMSTANCES WAIVE THIS PROVISION.

Please check here if Attorney has already registered for Electronic Funds Transfer/Direct Deposit through the Department of Financial Services.

Please check the box if ANY contact information below has changed.

Please check the box and attach a new W-9 if the tax identification number of the payee has changed

ATTORNEY: \_\_\_\_\_

_____ Signature – Attorney	_____ Date
_____ Type Name of Attorney	
_____ Florida Bar Number	
_____ Mailing Address	
_____ City, State, and Zip Code	
_____ Email Address	
_____ Telephone Number	
_____ Facsimile Number	

LEGAL ENTITY:

_____ Type Name of Legal Entity	
_____ Type Name of Representative	

_____ Signature – Representative	_____ Date
_____ Mailing Address	
_____ City, State, and Zip Code	
_____ Email Address	
_____ Telephone Number	
_____ Facsimile Number	

**Payment by JAC under this Agreement may only be made to Attorney or the Legal Entity. Attorney and Legal Entity designate that payment by JAC under this Agreement shall be made to:**

_____ Name (Attorney or Legal Entity)
_____ Tax Identification Number *

**\* A CORRECT IRS FORM W-9 FOR THE PAYEE MUST BE ON FILE WITH JAC.**

STATE OF FLORIDA  
JUSTICE ADMINISTRATIVE COMMISSION

_____ Alton L. "Rip" Colvin, Jr. Executive Director	_____ Date
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**ADDENDUM A**

As of October 1, 2007:

- Section 27.40(3)(a), “The chief judge of each circuit shall compile and maintain a list of attorneys in private practice, by county and by category of cases and provide the list to the clerk of court in each county.”
- Section 27.40(3)(b), “The clerk of court shall maintain the registry and provide to the court the name of the attorney for appointment.”

**List all counties from which you receive appointments under this agreement<sup>1</sup>:**


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<sup>1</sup> Court appointed counsel on registries in multiple circuits must sign an individual contract for each circuit. It is NOT necessary to sign a contract for each county.

## Request for Taxpayer Identification Number and Certification

**Give form to the  
 requester. Do not  
 send to the IRS.**

<b>Print or type See Specific Instructions on page 2.</b>	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
	List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name” line.

**Limited liability company (LLC).** Check the “Limited liability company” box only and enter the appropriate code for the tax classification (“D” for disregarded entity, “C” for corporation, “P” for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner’s name on the “Name” line. Enter the LLC’s name on the “Business name” line.

For an LLC classified as a partnership or a corporation, enter the LLC’s name on the “Name” line and any business, trade, or DBA name on the “Business name” line.

**Other entities.** Enter your business name as shown on required federal tax documents on the “Name” line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the “Business name” line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the “Exempt payee” box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,
7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

### Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft) or 1-877-IDTHEFT(438-4338).

Visit the IRS website at [www.irs.gov](http://www.irs.gov) to learn more about identity theft and how to reduce your risk.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.