FIRST AMENDMENT/RENEWAL TO CONTRACT
A56-5-05-25

This is the first amendment to the contract entered into by and between the **Office of the Indiana Attorney General** (hereinafter referred to as "State") and **Michael Minglin**, whose address is 2155 Canvasback Drive, Indianapolis, IN 46234 (hereinafter "Counsel").

The State and Counsel have agreed to amend the original contract.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

A. Paragraph 2 ("Consideration") is hereby deleted in its entirety and replaced with the following:

2. Consideration. Counsel shall be paid fifty dollars ($50.00) an hour. Total remuneration under this Contract shall not exceed one hundred forty-seven thousand dollars ($147,00.00).

B. Paragraph 3 ("Term") is hereby deleted in its entirety and replaced with the following:

3. Term. The term of this Contract will be from January 3, 2005 to January 2, 2007.

C. Paragraph 9 ("Compliance with Laws") is hereby deleted in its entirety and replaced with the following:

9. Compliance with Laws.

A. Counsel shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and Counsel to determine whether the provisions of this Agreement require formal modification.

B. Counsel and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If Counsel is not familiar with these ethical requirements, Counsel should refer any questions to the State Ethics Commission, or visit the State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If Counsel or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to Counsel. In addition, Counsel may be subject to penalties under Indiana Code § 4-2-6-12.

C. Counsel certifies by entering into this Agreement, that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State. Counsel agrees that any payments currently due to the State may be withheld from payments due to Counsel. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until Counsel is current in its payments and has submitted proof of such payment to the State.

D. Counsel warrants that it has no pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, Counsel agrees that the State may delay, withhold, or deny work under this Agreement and any supplements or amendments.

E. If a valid dispute exists as to Counsel's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to Counsel, Counsel may request that it be allowed to continue, or receive work, without delay. Counsel must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties.

F. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

G. Counsel warrants that Counsel and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.

H. Counsel agrees that the State may confirm, at any time, that no liabilities exist to the State, and, if such liabilities are discovered, that State may bar Counsel from contracting with the State in the future, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until Counsel is current in its payments on its liability to the State and has submitted proof of such payment to the State.

I. As required by IC 5-22-3-7:

(1) Counsel and any principals of Counsel certify that (A) Counsel, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) Counsel will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

(2) Counsel and any principals of Counsel certify that an affiliate or principal of Counsel and any agent acting on behalf of Counsel or on behalf of an affiliate or principal of Counsel: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal

law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

D. Paragraph 28 ("Payments") is hereby deleted in its entirety and replaced with the following:

28. Payments. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by Counsel in writing unless a specific waiver has been obtained from the Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC 4-13-2-20.

This amendment shall take effect upon execution.

All other matters previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in full force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member, or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent, or officer of the firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of this agreement.

THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

IN WITNESS WHEREOF, Counsel and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

Michael Minglin

By: _____

Date: 12/22/05

Indiana Attorney General

By: _____
Stephen Carter
Attorney General of Indiana

Date: 12-22-06

APPROVED BY:

DEPARTMENT OF ADMINISTRATION

By: _____ (for)
Earl A. Goode,
Commissioner

Date: 1-19-06

OFFICE OF MANAGEMENT AND BUDGET

By: _____ (for)
Charles E. Schalliol,
Director

Date: 1/24/2006

APPROVED AS TO FORM AND LEGALITY:

By: Elizabeth A. Brown (for)
Stephen Carter,
Attorney General of Indiana

Date: 2-17-06

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is between **the Indiana Attorney General** (hereinafter the "State") and **Michael Minglin**, whose address is 2155 Canvasback Drive, Indianapolis, IN 46234 (hereinafter "Counsel").

WITNESSETH

WHEREAS, the State desires to engage Counsel to provide legal and strategic assistance to the Medical Licensing Division of the Consumer Protection Division related to the resolution of complex medical malpractice cases.

WHEREAS, the Counsel has, among other things, particularized expertise and knowledge in reviewing and analyzing complex medical licensing cases.

NOW THEREFORE, in consideration of the premises and the mutual promises herein contained, it is agreed by and between the State and Counsel as follows:

1. Duties of Counsel
Counsel shall provide assistance in the investigation, processing, analysis and prosecution of complaints against licensed medical professionals for the Medical Licensing Division.

2. Consideration
Counsel shall be paid at the hourly rate of fifty dollars ($50.00). The maximum amount of this contract shall not exceed forty-nine thousand dollars ($49,000). The State shall not pay a retainer fee to counsel in accordance with I.C. 4-13-2-20.

3. Term
The term of this contract will be from January 3, 2005 through January 2, 2006.

4. Access to Records
Counsel shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this contract. Counsel shall make such materials available at its offices at all reasonable times during the contract period, and for three (3) years from the date of final payment under the contract, for inspection by the State or by any other authorized representative of state government. Copies thereof shall be furnished at no cost to the State if requested.

5. Assignment
Counsel shall not assign or subcontract the whole or any part of this contract without the State's prior written consent. Counsel may assign its right to receive payments to such third parties as Counsel may desire without the prior written consent of the State, provided that Counsel gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this contract and shall not be made to more than one party.

6. Audits
Counsel acknowledges that it may be required to submit to an audit of funds paid through this agreement. Any such audit shall be conducted in accordance with IC 5-11-1, and audit guidelines specified by the State.

7. Authority to Bind Contractor
Notwithstanding anything in the contract to the contrary, the signatory for the Counsel represents that he/she has been duly authorized to execute contracts on behalf of the Counsel designated above and has obtained all necessary or applicable approvals from the home office of the Counsel to make this contract fully binding upon the Counsel when his/her signature is affixed and is not subject to home office acceptance hereto when accepted by the State of Indiana.

8. Changes in Work
In the event the State requires a major change in scope, character or complexity of the work after the work has progressed, adjustments in compensation to Counsel shall be determined by the State in the exercise of its honest and reasonable judgment. Counsel shall not commence any additional work or the change of the scope of the work until authorized in writing by the State. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

9. Compliance with Laws

A. The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this contract shall be reviewed by the State and the Contractor to determine whether the provisions of the contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If the contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6-12.

C. The Contractor certifies by entering into this Contract, that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. Further, the Contractor agrees that any payments in arrears and currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further

work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the State of any such actions. During the term of such actions, Contractor agrees that the State may delay, withhold, or deny work under any Supplement or contractual device issued pursuant to this Agreement. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State of Indiana or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties.

E. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so is a material breach of the contract and grounds for immediate termination of the Contract and denial of further work with the State.

G. The Contractor hereby affirms that it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. Contractor agrees that the State may confirm, at any time, that no liabilities exist to the State of Indiana, and, if such liabilities are discovered, that State may bar Contractor from contracting with the State in the future, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until the entity is current in its payments on its liability to the State and has submitted proof of such payment to the State.

10. Confidentiality of Data, Property Rights in Products, and Copyright Prohibition

The Counsel further agrees that all information, data, finding, recommendations, proposals, etc. by whatever name described and by whatever form secured, developed, written or produced by the Counsel in furtherance of this Contract shall be the property of the State. The Counsel shall take such action as is necessary under law to preserve such property rights in and of the State while such property is within the control and/or custody of the Counsel. By this contract, the Counsel specifically waives and /or releases to the

State any cognizable property right of the Counsel to copyright, license, patent or otherwise use such information, data, findings, recommendations, proposals, etc.

11. Confidentiality of State Information

Counsel understands and agrees that data, materials and information disclosed to Counsel may contain confidential and protected data. Therefore, Counsel promises and assures that data, material and information gathered, based upon or disclosed to Counsel for the purposes of this contract, will not be disclosed to others or discussed with other parties without the prior written consent of the State.

All information, data and reports existing, available and necessary for the carrying out of Counsel's services shall be furnished to Counsel without charge by the State, and the State shall cooperate with Counsel in every way possible in carrying out the scope of Counsel's services.

12. Conflict of Interest

A. As used in this section:

"Immediate Family" means the spouse and unemancipated children of an individual.

"Interested Party" means:

1. The individual executing this Contract;
2. An individual who has an interest of three percent (3%) or more of Counsel, if Counsel is not an individual; or
3. Any member of the immediate family of an individual specified under subdivision 1 or 2.

"Department" means the Indiana Department of Administration.

"Commission" means the State Ethics Commission.

B. The Department may cancel this Contract without recourse by Counsel if any interested party is an employee of the State of Indiana.

C. The Department will not exercise its right of cancellation under section B, above, if Counsel gives the Department an opinion by the Commission indicating that the existence of this Contract and the employment by the State of Indiana of the interested party does not violate any statute or code relating to ethical conduct of state employees. The Department may take action , including cancellation of this contract, consistent with an opinion of the Commission obtained under this section.\

D. Counsel has an affirmative obligation under this contract to disclose to the Department when an interested party is or becomes an employee of the State of Indiana. The obligation under this section extends only to those facts that Counsel knows or reasonably could know.

13. Continuity of Services

A. The Counsel recognizes that the services under this contract are vital to the State and must be continued without interruption and that, upon contract expiration, a

successor, either the State or another Counsel, may continue them. The Counsel agrees to:

1. Furnish phase-in-training, and
2. Exercises its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Counsel shall, upon the State's written notice:
   1. Furnish phase-in, phase-out services for up to sixty (60) days after this contract expires, and
   2. Negotiate in good faith a plan with a successor to determine the nature and extend of phase-in, phase out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Counsel shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

C. The Counsel shall be allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Counsel also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Counsel shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

   The Counsel shall be reimbursed for all reasonable phase-in, phase-out costs (i.e. costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

14. Debarment and Suspension

Counsel certifies, by entering into this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this contract by any federal agency or department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this contract is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Counsel.

15. Default by State

If the State, sixty (60) days after written notice, fails to cure any breach of this Contract, then Counsel may cancel and terminate this contract and collect all monies due up to and including the date of termination.

16. Disputes
Should any disputes arise with respect to this contract, Counsel and the State agree to act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

Counsel agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this contract that are not affected by the dispute. Should the Counsel fail to continue to perform its responsibilities as regards all non-disputed work, without delay, any additional costs incurred by the State or Counsel as a result of such failure to proceed shall be borne by Counsel, and Counsel shall make no claim against the State for such costs. If the State and Counsel cannot resolve a dispute within ten (10) working days following notification in writing by either party of the existence of said dispute then the following procedure shall apply:

The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to Counsel and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute shall be submitted to an Indiana court of competent jurisdiction.

The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to Counsel of one or more invoices not in dispute in accordance with the terms of this contract will not be cause for Counsel to terminate this contract, and Counsel may bring suit to collect these amounts without following the disputes procedure contained herein.

17. Drug-Free Workplace
Counsel hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this contract a drug-free workplace. Counsel will give written notice to the State within ten (10) days after receiving actual notice that the Counsel or an employee of the Counsel has been convicted of a criminal drug violation occurring in Counsel's workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this agreement is in excess of $25,000.00, Counsel hereby further agrees that this agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of $25,000.00. No award of a contract shall be made, and no contract, purchase order or contract, the total amount of which exceeds $25,000.00, shall be valid, unless and until this certification has been fully executed by Counsel and made a part of the contract or contract as part of the contract documents.

Counsel certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Counsel's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

B. Establishing a drug-free awareness program to inform their employees of (1) the dangers of drug abuse in the workplace; (2) Counsel's policy of maintaining a drug-free workplace; (3) any available drug consulting, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace.

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify Counsel of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction.

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Option
If the State determines that it would be in the State's best interest to hire an employee of the Counsel, the Counsel will release selected employee from any non-compete contracts that may be in effect. This release will be at no cost to the State or the employee.

19. Force Majeure
In the event that either party is unable to perform any of its obligations under this contract or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies, or communication line failure not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this contract.

20. Funding Cancellation
When the director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract, the multiterm contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

21. Governing Laws
This contract shall be construed in accordance with, and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

22. Indemnification
Counsel agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officials, and employees from all claims and suits, including court costs, attorney's fees, and other expenses caused by any act or omission of Counsel. The State shall not provide such indemnification to Counsel.

23. Independent Contractor
Both parties hereto, in the performance of this contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees of the other party. Counsel shall be responsible for providing all necessary unemployment and worker's compensation insurance for Counsel's employees.

24. Licensing Standards
The parties agree that Counsel and its employees will comply with all applicable licensing standards, certification standards, accrediting standards and any other laws or regulations governing services to be provided by the Counsel pursuant to this agreement. State shall not be required to reimburse Counsel for any services performed when Counsel or its employees are not in compliance with such applicable standards, laws, or regulations. If licensure, certification or accreditation expires or is revoked, Counsel agrees to notify State immediately thereof.

25. Nondiscrimination
Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, Counsel shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, if any, with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

26. Notice to Parties
Whenever any notice, statement or other communication shall be sent to the State or Counsel, it shall be sent to the following address, unless otherwise specifically advised.

A. Notice to the State shall be sent to:
Sheila McGrath
Office of Attorney General
Attn: Consumer Protection Division
302 W. Washington St., IGCS 5th Fl.
Indianapolis, IN 46204

B. Notice to Counsel shall be sent to:
Michael Minglin
2155 Canvasback Dr.
Indianapolis, IN 46234

27. Ownership of Documents & Materials
All documents, records, programs, data, film, tape, articles, memos, and other materials developed under this contract shall be considered "work for hire" and the Counsel transfers any ownership claim to the State of Indiana and all such matters will be the property of the State of Indiana. Use of these materials, other than related to contract performance by the Counsel, without the prior written consent of the State, is prohibited. During the performance of the services specified herein, the Counsel shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided herein while the materials are in the

possession of the Counsel. Any loss or damage thereto shall be restored at the Counsel's expense. Full, immediate, and unrestricted access to the work product of the Counsel during the term of this Contract shall be available to the State.

28. Payments
All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures.

29. Penalties/Interest/Attorney's Fees
The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5-1 et seq., IC 34-54-8-5, and IC 34-13-1-6.

Notwithstanding the provisions contained in IC 5-17-5, the Parties stipulate and agree that any liability resulting from the State of Indiana's failure to make prompt payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

30. Progress Reports
The Counsel shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

31. Renewal Option
This contract may be renewed under the same terms and conditions subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. Exercise of this option is at the sole discretion of State and is not subject to contract or acceptance by Counsel.
The renewal term of the contract may not exceed the original term.

32. Severability
The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.

33. Substantial Performance
This contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

34. Successors and Assignees
Counsel binds its successors, executors, administrators, and assignees to all covenants of this contract. Except as above set forth, Counsel shall not assign, sublet or transfer any interest in this contract without the prior written consent of the State.

35. Taxes
The State of Indiana is exempt from state, federal and local taxes. The State will not be responsible for any taxes levied on Counsel as a result of this contract.

36. Termination Employment
At the termination of this contract, the Counsel shall allow as many personnel as practicable to remain on the job to help the State maintain the continuity and consistency of the services required by this contract. The Counsel also shall disclose necessary personnel records and allow the State to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Counsel shall release them at a mutually agreeable date and negotiate transfer of their fringe benefits.

37. Termination for Convenience
This contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination of services shall be affected by delivery to the Counsel of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Counsel shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after effective date of termination. The Counsel shall be compensated for services herein provided but in no case shall total payment made to Counsel exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

38. Termination for Default

A. With the provision of thirty (30) days notice to the Counsel, the State may terminate this contract in whole or in part, if the Counsel **fails to:**
   1. Correct or cure any breach of this contract;
   2. Deliver the supplies or perform the services within the time specified in this contract or any extension;
   3. Make progress so as to endanger performance of this contract; or
   4. Perform any of the other provisions of this contract.

B. If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Counsel will be liable to the State for any excess costs for those supplies or services. However, the Counsel shall continue work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Counsel and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be disputed under the Disputes clause. The State may withhold from these amounts any sum the State determines to

be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

39. Travel

Expenditures made by the Counsel for travel will be reimbursed by the State at the current rate paid by the State of Indiana. Travel expenses can only be reimbursed in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular (#97-1.1). Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

40. Waiver of Rights

No right conferred on either party under this contract shall be deemed waived and no breach of this contract excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

41. Work Standards

Counsel agrees to execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product or the working relationship with those individuals assigned to work on this contract, the State may request in writing the replacement of any or all such individuals and Counsel shall grant such request.

42. Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member, or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent, or officer of the firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of this agreement.

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, Counsel and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

By: _____
Michael Minglin

Title: Outside Counsel

Date: 5/11/05

By: _____
Stephen Carter
Attorney General of Indiana

Date: 5-16-05

APPROVED BY:

DEPARTMENT OF ADMINISTRATION

By: _____ (for)
Earl A. Goode,
Commissioner

Date: 5-18-05

STATE BUDGET AGENCY

By: _____ (for)
Charles E. Schalliol,
State Budget Director

Date: 5/20/2005

APPROVED AS TO FORM AND LEGALITY:

By: _____ (for)
Stephen Carter,
Attorney General of Indiana

Date: 5-23-05