

STANDARD CONTRACT TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

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STANDARD CONTRACT TERMS AND CONDITIONS

This contract is entered into this {insert day} day of {insert month year} between the North Carolina Office of Indigent Defense Services (hereinafter “IDS”) and {insert name of Contractor; if Contractor is a law firm or non-profit with multiple attorneys, specify named attorneys} (hereinafter “Contractor”), for the purpose of providing the legal services described in Section 13.

Under the terms and conditions set forth in this contract, IDS and Contractor do mutually agree as follows:

GENERAL TERMS AND CONDITIONS

Section 1: General Definitions

The following definitions control the interpretation of this contract:

1.1 Office of Indigent Defense Services (“IDS”)

“IDS” includes all authorized agents, employees, representatives, and designees of IDS.

1.2 IDS Director

“IDS Director” includes the Director and the Director’s designee.

1.3 Contractor

“Contractor” is the individual attorney, law firm, or non-profit organization that has entered into this contract with IDS.

1.4 Client

A “client” is a person whom a state court has determined to be entitled to appointed counsel at state expense pursuant to the United States Constitution, North Carolina Constitution, and/or North Carolina General Statutes.

1.5 Assignment

An “assignment” is the appointment of Contractor to represent a specific eligible client in any matter under the terms of this contract. If Contractor is a law firm or non-profit with multiple named attorneys, an assignment to a specific case will be to an individual attorney named in this contract, not the law firm or non-profit.

1.6 Case

A “case” is any legal action in this state in which Contractor has been assigned to represent a client under the terms of this contract.

(a) A “newly assigned case” is each new unique client, including a former client with new charges but excluding an existing client with new charges, that is assigned to Contractor pursuant to this contract, except as provided herein. In juvenile delinquency cases, if a new unrelated

petition is filed against an existing client and the disposition hearing has already been conducted in the existing case, the new unrelated petition shall constitute a newly assigned case.

(b) A “disposed case” is all of the charges or matters that are finally disposed at the trial level on behalf of the same contract client before the same judge at the same time in the same court. A case is not finally disposed at the trial level until all obligations to the client in that case have been met, including the obligations set forth in Section 5.2 and Appendix A.

(i) An adult misdemeanor case is not finally disposed at the trial level until the time for appealing to Superior Court for trial *de novo* has expired or any trial *de novo* has been resolved.

(ii) A juvenile delinquency case is not finally disposed at the trial level until the disposition hearing is complete and there are no status review hearings scheduled or, if this contract has expired or been terminated, Contractor’s continuing duties in Section 5.3(b) have been fulfilled.

(iii) For purposes of this contract, in the event that a juvenile delinquency case is transferred to Superior Court for trial as an adult, the delinquency case is deemed finally disposed at the trial level when the transfer hearing is complete and the time for appealing the transfer decision to Superior Court has expired or any such appeal has been resolved. Thereafter, the transferred case is deemed to be a newly assigned case.

(1) If Contractor also contracts with IDS to handle adult felony cases of the same class as the transferred case, the transferred case shall be reported as a newly assigned case pursuant to that contract.

(2) If Contractor does not contract with IDS to handle adult felony cases of the same class as the transferred case, but continues to represent the juvenile in Superior Court following the consultation required by Section 4.10(e), Contractor shall be eligible to apply for and to receive additional compensation or a reduction in the annual minimum and maximum number of dispositions pursuant to Section 7.6.

1.7 Substantive Hearing

In abuse/neglect/dependency and termination of parental rights cases, a “substantive hearing” is defined as an initial adjudication hearing, an initial disposition hearing, an initial review hearing, an initial permanency planning hearing, each subsequent review and permanency planning hearing, and a termination of parental rights hearing.

1.8 Session

In case types where Contractor provides services on a per session basis, unless an alternative county-specific definition is provided in Section 14, a “session” is defined as follows:

(a) For child support contempt cases, a “session” is defined as all work done between the end of the last contempt court session and the end of the current contempt court session, including any intervening motions hearings, any intervening administrative settings or other regularly scheduled court appearances, any intervening interstate cases assigned to Contractor on a different date, and any *de novo* appeal to Superior Court in an individual criminal contempt case.

(b) For treatment court cases, a “session” is defined as all work done between the end of the last court session and the end of the current court session, including any intervening team meetings.

(c) If local practice is to provide representation in other case types on a per session basis and this contract provides for per session representation, a “session” is defined as all work done between the end of the last court session and the end of the current court session.

Section 2: Definitions of Contract Categories

2.1 Adult Misdemeanor Cases

“Adult misdemeanor cases” include all cases at the trial level where the client is an indigent adult, a juvenile who was 16 or 17 years of age at the time of the offense, or a juvenile who was previously transferred to Superior Court for trial as an adult and the most serious original charge is a misdemeanor non-traffic, misdemeanor traffic, driving while impaired (“DWI”) or habitual DWI, habitual assault, extradition, probation violation in District Court, criminal or civil contempt in District Court (only if it arises in a criminal case or involves contempt of a parent in a juvenile delinquency case), or contempt before the Post-Release Supervision and Parole Commission (in counties where such hearings are held in person or by videoconference, including Burke, Craven, Granville, Rowan, Wake, and Wayne). “Adult misdemeanor cases” include Class 3 misdemeanor offenses allegedly committed on or after December 1, 2013 where the Court has not found that the defendant has more than three prior convictions, but the defendant is in custody and the Court appoints counsel for the limited purpose of ensuring that the defendant has meaningful access to the courts during the time period of the defendant’s confinement on the Class 3 misdemeanor charge. “Adult misdemeanor cases” do not include the per session case types covered by Section 2.10. Representation in an adult misdemeanor case may be in District or Superior Court.

2.2 Adult Low-Level Felony Cases

“Adult low-level felony cases” include all cases at the trial level where the client is an indigent adult, a juvenile who was 16 or 17 years of age at the time of the offense, or a juvenile who was previously transferred to Superior Court for trial as an adult and the most serious original charge is a Class E through Class I felony, as well as probation violations in Superior Court, non-child support contempt cases in Superior Court (including criminal and civil contempt cases), post-release supervision and parole preliminary revocation hearings where the hearing officer has found an entitlement to counsel, post-release supervision and parole revocation hearings where the Post-Release Supervision and Parole Commission has found an entitlement to counsel (in counties where such hearings are held in person or by videoconference, including Burke, Craven, Granville, Rowan, Wake, and Wayne), and any other adult low-level felony or misdemeanor charges that are brought against a previously assigned contract client while the original low-level felony is still pending, with the exception of Class 3 misdemeanor offenses allegedly committed on or after December 1, 2013 where the Court has not found that the defendant has more than three prior convictions, but the defendant is in custody and the Court appoints counsel for the limited purpose of ensuring that the defendant has meaningful access to the courts during the time period of the defendant’s confinement on the Class 3 misdemeanor charge. “Adult low-level felony cases” also include habitual felon cases where the most serious possible conviction would be a low-level felony, and may (as specified in Section 4.10(d)) include habitual felon cases where the most serious possible conviction would be a high-level felony. Other than contempt cases, representation in an adult low-level felony case may be in District or Superior Court.

2.3 Adult High-Level Felony Cases

“Adult high-level felony cases” include all cases at the trial level where the client is an indigent adult, a juvenile who was 16 or 17 years of age at the time of the offense, or a juvenile who was previously transferred to Superior Court for trial as an adult and the most serious original charge is a Class A felony that is not a “capital offense” (as defined by IDS Rule 2A.1(a)) through a Class D felony, as well as satellite-based monitoring “bring back” hearings and any other adult criminal charges that are brought against a previously assigned contract client while the original high-level felony is still pending, with the exception of Class 3 misdemeanor offenses allegedly committed on or after December 1, 2013 where the Court has not found that the defendant has more than three prior convictions, but the defendant is in custody and the Court appoints counsel for the limited purpose of ensuring that the defendant has meaningful access to the courts during the time period of the defendant’s confinement on the Class 3 misdemeanor charge. “Adult high-level felony cases” also include habitual felon cases where the most serious possible conviction would be a high-level felony. Representation in an adult high-level felony case may be in District or Superior Court.

2.4 Juvenile Delinquency Felony, Misdemeanor, and Chapter 5A Contempt Cases

“Juvenile delinquency felony, misdemeanor, and Chapter 5A contempt cases” include all cases at the trial level where the client is a juvenile who was under the age of 16 at the time of the offense and the most serious original charge is a felony, misdemeanor, or Chapter 5A contempt case, as well as motions for review (for probation violations, extended commitment, post-release supervision violations, and modifications/extensions/terminations of probation) and detention and status review hearings where new counsel needs to be assigned. In juvenile delinquency cases, the juvenile is conclusively presumed to be indigent. Representation in a juvenile delinquency felony, misdemeanor, or Chapter 5A contempt case includes time in District Court, and may (as specified in Section 4.10(e)) include time in Superior Court when a case is transferred for trial as an adult. Because there is no statutory entitlement to appointed counsel in a hearing to review the progress of a juvenile on protective supervision, this contract category does not include representation at such hearings.

2.5 Special Proceedings

“Special proceedings” include all cases at the trial level involving Chapter 35A competency/guardianship proceedings (incompetency proceedings, restoration of competency proceedings, sterilization proceedings, and proceedings involving the modification of a guardianship order, removal of a guardian, resignation of a guardian, or appointment of a successor guardian when Chapter 35A assigns payment responsibility to IDS), Chapter 122C civil commitments involving an indigent respondent, Chapter 108A protective services for indigent disabled adults, and minors requesting judicial waiver of parental consent to obtain an abortion or petitioning to marry, where Contractor will be the attorney or guardian ad litem (“GAL”)-attorney advocate for the respondent, disabled adult, or minor.

2.6 Abuse/Neglect/Dependency and Termination of Parental Rights Cases (Respondent Attorney)

“Abuse/neglect/dependency cases” include all cases at the trial level where the client is an indigent parent, the Department of Social Services has filed a petition alleging that a juvenile is abused, neglected, or dependent, and Contractor will be the client’s attorney (not the client’s GAL).

“Abuse/neglect/dependency cases” may include representation of an indigent non-parent who is named as a respondent in the petition or motion, such as a guardian, custodian, or caretaker, if the presiding judge determines that due process requires appointment of counsel for a particular non-parent respondent. “Termination of parental rights cases” include all cases at the trial level where the client is an indigent parent, the Department of Social Services or a private party has filed a petition or motion to terminate the client’s parental rights, and Contractor will be the client’s attorney (not the client’s GAL).

2.7 Abuse/Neglect/Dependency and Termination of Parental Rights Cases (Respondent Guardian ad Litem Services)

“Abuse/neglect/dependency and termination of parental rights respondent GAL services” include all best-interest GALs who are appointed to represent indigent minor or incompetent respondents in abuse/neglect/dependency and termination of parental rights cases.

2.8 Child Support Contempt Cases

“Child support contempt cases” include all cases at the trial level where the client is an indigent defendant and contempt is being sought as a means of enforcing a child support obligation. Representation in a child support contempt case includes time on a per session basis in District Court, including time on any intervening motions hearings, any intervening administrative settings or other regularly scheduled court appearances, any intervening interstate cases assigned to Contractor on a different date, and any *de novo* appeal to Superior Court in an individual criminal contempt case. To the extent possible, assignments in child support contempt cases shall be made in a manner that ensures continuity of representation.

2.9 Treatment Court Cases

“Treatment court cases” include all cases at the trial level where the client is a participant in a treatment court of any type, including drug treatment court (adult, juvenile, and family), mental health treatment court, DWI treatment court, veterans treatment court, tribal court, sex offender accountability and recovery court, and truancy court. Representation in a treatment court case includes time on a per session basis in District or Superior Court, including time on intervening team meetings. Representation in a treatment court case ceases when a client is discharged from the program and does not extend to proceedings before the referring court. Contracts for treatment courts may require coverage of one or more treatment courts and will not necessarily cover the entire contract category.

2.10 Other Per Session Court Cases in District Court

“Other per session court cases” include, but are not limited to, probation violations and domestic violence probation violations in Wake County District Court when those case types are handled on a per session basis.

Section 3: Independent Contractor and Key Personnel

3.1 Independent Contractor

(a) Under no circumstances shall this contract be construed, deemed, or considered to be an employment agreement between IDS and Contractor. Contractor shall have no claim under this contract or otherwise against IDS for vacation pay, sick leave, retirement benefits, Social Security,

worker's compensation, disability, employment insurance benefits, professional malpractice insurance benefits, or employee benefits of any kind. Contractor is not an agent or employee of IDS and shall not represent itself as an agent or employee of IDS.

(b) Contractor is an independent contractor providing professional legal services as provided herein, and IDS shall neither direct the manner nor the method by which Contractor provides such services. Nothing in this contract shall be construed as derogating from the attorney-client relationship or as giving IDS authority to control or influence Contractor in the exercise of professional judgment, except that IDS may impose general performance standards or guidelines to ensure quality representation. Additionally, Contractor shall be subject to periodic performance evaluations and record reviews as provided in Section 9.

3.2 State Tort Claims Act Not Applicable

For purposes of this contract, Contractor is not an officer, employee, or agent of the State of North Carolina as those terms are used in Article 31 of Chapter 143 of the North Carolina General Statutes. Contractor accepts responsibility for all actions of Contractor's members, officers, employees, parties, and agents.

3.3 Key Personnel

(a) Except as provided in Sections 3.3(c) and 4.8(b), Contractor shall not utilize substitute service providers who are not named in this contract and shall not subcontract or assign any material responsibilities required by this contract, including representation at critical stages of any contract case as provided in Rule 1.5(d) of the Rules of the IDS Commission, without the advance written approval of the IDS Director.

(b) If Contractor is an individual attorney and Contractor changes law firms, the obligations in this contract, both for pending and for newly assigned cases, shall continue within the framework of the new law firm, with the understanding that contracts with the State shall not be assigned, unless Contractor terminates this contract in accordance with Section 10.1.

(c) If Contractor is a law firm or non-profit and one named attorney changes law firms, the obligations in this contract for pending cases shall remain with the law firm or non-profit if the Court allows the original assigned attorney to withdraw pursuant to Section 4.10 and appoints the replacement attorney designated by the law firm or non-profit. If Contractor is a law firm or non-profit and one named attorney changes law firms, the obligations in this contract for newly assigned cases shall remain with the law firm or non-profit. In that event, the law firm or non-profit shall have an obligation to hire a qualified substitute attorney and to obtain advance written approval for the substitution from the IDS Director in accordance with IDS policies. To the extent possible, Contractors that are entities shall ensure that contract clients receive continuity of representation.

Section 4: General Contractor Obligations

4.1 Compliance with Laws

Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of Contractor's business, including those of federal, state, and local agencies having jurisdiction and/or authority.

4.2 Malpractice Insurance

During the term of this contract, Contractor at Contractor's sole cost and expense shall maintain malpractice insurance of such type and with such terms and limits as may be reasonably associated with this contract. At a minimum, Contractor shall maintain malpractice insurance with liability limits of \$100,000 per claim and \$300,000 annual aggregate.

4.3 Computer and Internet Access

Contractor shall have a working computer and adequate access to the Internet to comply with the data reporting requirements in Section 6.

4.4 Email and Listservs

Contractor shall maintain a business email address and shall subscribe to IDS' Contractor listserv and any applicable specialized listserv(s) as required by IDS.

4.5 Federal Tax Identification Number

Contractor shall maintain a federal tax identification number for payment purposes. To protect all Contractors from identity theft, IDS shall not pay Contractors pursuant to a Social Security number.

4.6 Change in Contact Information or Payee's Name or Tax Identification Number

(a) In the event of any change in any contact information for Contractor or an attorney named in this contract, including business mailing address, phone number, facsimile number, or email address, Contractor shall immediately submit written notification to IDS, the Clerk of Court's Office(s) in the county or counties covered by this contract, and, if applicable, the Public Defender Office(s) in the county or counties covered by this contract.

(b) In the event of any change in the name of Contractor's law firm or the tax identification number of the payee of this contract, Contractor shall immediately submit written notification to IDS.

4.7 Additional Required Notifications

Contractor shall submit written notification to IDS within ten (10) calendar days of when Contractor learns that any of the following has occurred, and shall provide any reasonable documentation requested by IDS:

(a) The Court, Clerk, or Public Defender Office is not assigning Contractor or an attorney named in this contract to the expected number of cases available for assignment;

(b) Contractor or an attorney named in this contract is no longer able to meet all contractual obligations for whatever cause, including but not limited to organizational change or significant problems with court personnel that are impeding Contractor's ability to meet contract obligations;

(c) Contractor or an attorney named in this contract has been charged with a crime punishable by a term of incarceration of one or more years or involving moral turpitude;

(d) Contractor or an attorney named in this contract has been convicted of a crime punishable by a term of incarceration of one or more years or involving moral turpitude;

(e) A formal accusation of misconduct has been filed with the North Carolina State Bar against Contractor or an attorney named in this contract;

(f) Disciplinary action has been taken by the North Carolina State Bar or a Court against Contractor or an attorney named in this contract;

(g) Litigation has been filed against Contractor or an attorney named in this contract alleging improper conduct of Contractor with any client;

(h) A motion for appropriate relief (“MAR”) has been filed alleging that Contractor provided ineffective assistance of counsel in any case; or

(i) A Court has entered an Order finding that Contractor provided ineffective assistance of counsel in any case.

4.8 Unavailability of Contractor

(a) *Caseload Unit Contracts:*

(i) If Contractor or an attorney named in this contract will be unavailable for new case assignments for a time period that will exceed four (4) business days, whether due to vacation, secured leave, a trial, or any other reason, Contractor shall submit written notification as soon as practicable to the Clerk of Court’s Office(s) and, if applicable, the Public Defender Office(s) not to assign new contract cases to Contractor or the named attorney during the specified time period of unavailability.

(ii) If Contractor or an attorney named in this contract will be unavailable for new case assignments for a time period that is likely to impair Contractor’s ability to meet the minimum number of annual dispositions or hearings or the expected annual number of sessions in Section 13.1, Contractor shall immediately notify IDS in writing.

(b) *Per Session Contracts:*

(i) If Contractor or an attorney named in this contract will be unable to cover a session that is required by this contract, Contractor shall have an obligation to arrange for a suitable replacement attorney to cover the session. In that event, Contractor shall still report the session data pursuant to Section 6.4 to receive compensation from IDS and shall directly compensate the replacement attorney.

(ii) If Contractor or an attorney named in this contract will be unable to cover more than one consecutive session that is required by this contract, Contractor shall immediately notify IDS to make arrangements for alternative coverage.

4.9 Financially Ineligible Clients

Contractor shall comply with the requirements of N.C. Gen. Stat. § 7A-450(d) if Contractor learns that a contract client is not indigent and is ineligible for state-funded legal services under this contract.

4.10 Withdrawal From Contract Cases and Required Consultations

(a) Contractor or an attorney named in this contract may withdraw from an assigned contract case only with the Court’s approval. Contractor shall promptly file a motion to withdraw due to a

conflict of interest or any other reason requiring withdrawal from a case assigned pursuant to this contract. If the Court grants the motion to withdraw, the case shall be reassigned to another Contractor, if another Contractor is available and able to accept the case assignment. If Contractor is an entity, an attorney named in this contract moves to withdraw for a reason other than a conflict of interest, and the Court grants the motion to withdraw, the case shall be reassigned to another attorney named in this contract whenever possible.

(b) If Contractor is assigned to an adult misdemeanor client pursuant to this contract, the client is subsequently charged with a low-level felony (excluding indictment for habitual DWI or habitual assault) or a high-level felony, and Contractor does not handle adult low- or high-level felony cases pursuant to this contract, there shall be a presumption that Contractor will move to withdraw and that all pending charges against the client shall be reassigned to an appropriate Contractor. However, if both Contractors agree after consultation with the client that dual representation would be in the client's best interest, dual representation shall be permitted.

(c) If Contractor is assigned to an adult low-level felony client pursuant to this contract, the client is subsequently charged with a high-level felony (excluding indictment as a habitual felon), and Contractor does not handle adult high-level felony cases pursuant to this contract, there shall be a presumption that Contractor will move to withdraw and that all pending charges against the client shall be reassigned to an appropriate Contractor. However, if both Contractors agree after consultation with the client that dual representation would be in the client's best interest, dual representation shall be permitted.

(d) If Contractor is assigned to an adult low-level felony client pursuant to this contract, the client is subsequently indicted as a habitual felon and the most serious possible conviction would be of a Class C or D felony, and Contractor does not handle high-level felony cases pursuant to this contract, Contractor shall consult with IDS to determine whether Contractor should move to withdraw or continue the representation.

(e) If Contractor is assigned to a juvenile delinquency client pursuant to this contract and:
(i) the client is charged with first-degree murder or undesignated degree of murder, and Contractor does not handle adult Class A felonies pursuant to this contract, Contractor shall immediately contact IDS to arrange for an appropriate consultation.
(ii) the client's case is transferred to Superior Court for trial as an adult, and Contractor does not handle adult felony cases of the same class as the transferred case pursuant to this contract, Contractor shall consult with IDS to determine whether Contractor should move to withdraw or continue the representation.

Section 5: Scope of Representation and Continuing Duties

5.1 Effective and Ethical Representation

Contractor agrees to provide contract clients with competent and effective legal representation that meets all applicable constitutional and statutory standards. Contractor shall adhere to the Revised Rules of Professional Conduct promulgated by the North Carolina State Bar, any professional standards and canons of ethics of the Supreme Court of North Carolina, and any applicable case law and court rules that define the duties of counsel to their clients.

5.2 Extent and Scope of Representation

(a) Contractor shall provide representation at all trial-level stages of a case assigned pursuant to this contract, unless otherwise limited by this contract. Representation at the trial level shall include consultation with the client about the client's right to appeal and, if the client has a right to appeal and elects to appeal, entry of an appropriate and timely notice of appeal.

(b) *Adult Criminal Contracts:*

(i) If venue is changed in a case assigned pursuant to this contract, Contractor shall continue the representation at the trial level even if Contractor does not have a contract to represent clients in the county to which the proceeding is transferred. In an extraordinary case, Contractor may seek additional compensation outside the contract or a reduction in the minimum and maximum number of annual dispositions pursuant to Section 7.6.

(ii) If Contractor determines that there is a potentially meritorious claim to raise in a 10-day MAR pursuant to N.C. Gen. Stat. § 15A-1414, representation at the trial level shall include filing and litigating such a MAR. For an extraordinarily complex 10-day MAR, Contractor may seek additional compensation outside the contract or a reduction in the minimum and maximum number of annual dispositions pursuant to Section 7.6.

(c) *Juvenile Delinquency Contracts:* If Contractor determines that there is a potentially meritorious claim to raise pursuant to N.C. Gen. Stat. § 7B-2600, representation at the trial level shall include filing and litigating such a claim. For an extraordinarily complex claim, Contractor may seek additional compensation outside the contract or a reduction in the minimum and maximum number of annual dispositions pursuant to Section 7.6.

(d) *Abuse/Neglect/Dependency and Termination of Parental Rights Contracts (Respondent Attorney):* If Contractor determines that there is a potentially meritorious claim to raise in a Rule 59 or Rule 60 motion challenging the original adjudication, disposition, or termination of parental rights, representation at the trial level shall include filing and litigating such a motion. For an extraordinarily complex motion, Contractor may seek additional compensation outside the contract or a reduction in the minimum and maximum number of annual substantive hearings pursuant to Section 7.6.

(e) Contractor agrees to comply with IDS' policy on the scope of representation in indigent cases, which is attached to this contract as Appendix A and incorporated herein by reference.

5.3 Continuing Duties After Contract Expiration or Termination

(a) *Adult Criminal and Special Proceedings Contracts:* Contractor understands that the amount of the monthly compensation in Section 13.2 is intended to cover the range of annual dispositions in Section 13.1. Therefore, expiration or termination of this contract does not affect existing obligations to clients already assigned pursuant to this contract, except as provided herein. After contract expiration or termination, Contractor has a continuing obligation to represent clients assigned during the course of and pursuant to this contract until the client's case(s) is(are) finally disposed at the trial level, unless this contract is terminated by IDS for cause pursuant to Section 10.2 and the Court allows Contractor to withdraw pursuant to Sections 4.10 and 10.2(c). Because the compensation specified in Section 13.2(a) represents up-front compensation for the contractual

caseload in Section 13.1(a), Contractor's continued representation of such clients shall not be compensated by IDS through additional fees for services rendered, unless IDS otherwise agrees in writing.

(b) *Juvenile Delinquency Contracts*: Contractor understands that the amount of the monthly compensation in Section 13.2 is intended to cover the range of annual dispositions in Section 13.1 (weighted in accordance with Section 7.2(d)). Therefore, expiration or termination of this contract does not affect existing obligations to clients already assigned pursuant to this contract, except as provided herein. After contract expiration or termination, Contractor has a continuing obligation to represent clients assigned during the course of and pursuant to this contract through the disposition hearing and all status review hearings that are held within six (6) months of the disposition hearing or two (2) status review hearings (including reclaiming futures status reviews), whichever is greater, unless this contract is terminated by IDS for cause pursuant to Section 10.2 and the Court allows Contractor to withdraw pursuant to Sections 4.10 and 10.2(c). Contractor's continued representation of such clients shall not be compensated by IDS through additional fees for services rendered, unless IDS otherwise agrees in writing. If Contractor continues to represent a contract client in status review hearings that are held more than six (6) months after expiration or termination of this contract, or in more than two (2) status review hearings after expiration or termination of this contract, whichever is greater, Contractor may submit a fee application to the Court for hourly compensation for services rendered after six (6) months have elapsed or for more than two (2) status review hearings.

(c) *Abuse/Neglect/Dependency and Termination of Parental Rights Contracts (Respondent Attorney and Respondent GAL Services)*: Contractor understands that the amount of the monthly compensation in Section 13.2 is intended to cover the range of annual substantive hearings in Section 13.1. Therefore, expiration or termination of this contract does not affect existing obligations to clients already assigned pursuant to this contract, except as provided herein. After contract expiration or termination, Contractor has a continuing obligation to represent clients assigned during the course of and pursuant to this contract until the current stage of the case is completed (adjudication and disposition, termination of parental rights, or conclusion of all review or permanency planning hearings), for a period not to exceed six (6) months, unless this contract is terminated by IDS for cause pursuant to Section 10.2 and the Court allows Contractor to withdraw pursuant to Sections 4.10 and 10.2(c). Contractor's continued representation of such clients shall not be compensated by IDS through additional fees for services rendered, unless IDS otherwise agrees in writing. If Contractor continues to represent a contract client after the current stage of the case is completed or for a period in excess of six (6) months after expiration or termination of this contract, Contractor may submit a fee application to the Court for hourly compensation for services rendered after the current stage of the case is completed or after six (6) months have elapsed.

Section 6: Data Reporting Requirements and Submission of Recoupment Applications

6.1 Required Per Case Data Reporting: Adult Criminal and Juvenile Delinquency Cases

(a) *Newly Assigned Contract Cases*: Except as provided in Section 6.4(a), Contractor shall report complete and timely data about each newly assigned contract case in a format and manner required by IDS. Within seven (7) calendar days of the end of each month, Contractor shall complete all

required newly assigned case data fields in IDS' web-based Contractor Case Reporting System for each new case assigned during the prior month. After entering those data fields for all newly assigned cases and entering the disposed or withdrawn data required by Section 6.1(b), Contractor shall certify that all required data has been entered into the system and submit for monthly payment.

(b) *Disposed Contract Cases and Withdrawals*: Except as provided in Section 6.4(a), Contractor shall report complete and timely data about each disposed contract case and any contract cases from which Contractor has withdrawn, including Contractor's actual time spent on each case, in a format and manner required by IDS. Within seven (7) calendar days of the end of each month, Contractor shall complete all additional data entry fields that are required by IDS' web-based Contractor Case Reporting System for each contract case that was disposed and for each contract case from which Contractor withdrew during the month preceding the prior month. After entering those data fields for all disposed and withdrawn cases and entering the newly assigned case data required by Section 6.1(a), Contractor shall certify that all required data has been entered into the system and submit for monthly payment.

(c) *Penalties for Incomplete or Late Reporting*: If Contractor fails to submit complete and timely data about all newly assigned, disposed, and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data. If Contractor fails a second time during the duration of this contract to submit complete and timely data about all newly assigned, disposed, and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 10%. If Contractor fails three (3) or more times during the duration of this contract to submit complete and timely data about all newly assigned, disposed, and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 20% and/or terminate this contract for cause.

6.2 Required Per Case Data Reporting: Special Proceedings

(a) *Disposed Contract Cases and Withdrawals*: Except as provided in Section 6.4(a), Contractor shall report complete and timely data about each disposed contract case and any contract cases from which Contractor has withdrawn, including Contractor's actual time spent on each case, in a format and manner required by IDS. For competency/guardianship cases, Contractor shall not report to IDS or count toward the expected number of annual dispositions cases in which Chapter 35A assigns payment responsibility to the petitioner or respondent. Within seven (7) calendar days of the end of each month, Contractor shall complete all data entry fields that are required by IDS' web-based Contractor Case Reporting System for each contract case that was disposed and for each contract case from which Contractor withdrew during the prior month. After entering those data fields for all disposed and withdrawn cases, Contractor shall certify that all required data has been entered into the system and submit for monthly payment.

(b) *Penalties for Incomplete or Late Reporting*: If Contractor fails to submit complete and timely data about all disposed and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data. If Contractor fails a second time during the duration of this contract to submit complete and timely data about all disposed and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data and may

reduce Contractor's next monthly payment by up to 10%. If Contractor fails three (3) or more times during the duration of this contract to submit complete and timely data about all disposed and withdrawn contract cases, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 20% and/or terminate this contract for cause.

6.3 Required Per Hearing Data Reporting: Abuse/Neglect/Dependency and Termination of Parental Rights Cases (Respondent Attorney and Respondent GAL Services)

(a) *Newly Assigned Contract Cases*: Contractor shall report complete and timely data about each newly assigned contract case in a format and manner required by IDS. Within seven (7) calendar days of the end of each month, Contractor shall complete all required newly assigned case data fields in IDS' web-based Contractor Case Reporting System for each new case assigned during the prior month. After entering those data fields for all newly assigned cases and entering the substantive hearing and withdrawn case data required by Section 6.3(b), Contractor shall certify that all required data has been entered into the system and submit for monthly payment.

(b) *Substantive Hearings and Withdrawals*: Contractor shall report complete and timely data about each substantive hearing and any contract cases from which Contractor has withdrawn, including Contractor's actual time spent on each hearing, in a format and manner required by IDS. Within seven (7) calendar days of the end of each month, Contractor shall complete all additional data entry fields that are required by IDS' web-based Contractor Case Reporting System for each substantive hearing that was held and for each contract case from which Contractor withdrew during the month preceding the prior month. After entering those data fields for all substantive hearings and withdrawn cases and entering the newly assigned case data required by Section 6.3(a), Contractor shall certify that all required data has been entered into the system and submit for monthly payment.

(c) *Penalties for Incomplete or Late Reporting*: If Contractor fails to submit complete and timely data about all newly assigned contract cases, substantive hearings, and withdrawals, IDS shall withhold the next monthly payment until IDS receives the required data. If Contractor fails a second time during the duration of this contract to submit complete and timely data about all newly assigned contract cases, substantive hearings, and withdrawals, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 10%. If Contractor fails three (3) or more times during the duration of this contract to submit complete and timely data about all newly assigned contract cases, substantive hearings, and withdrawals, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 20% and/or terminate this contract for cause.

6.4 Required Per Session Data Reporting: Child Support Contempt Cases, Treatment Courts Cases, and Other Per Session Court Cases

(a) *Sessions*: For case categories where Contractor is compensated on a per-session basis—*i.e.*, child support contempt cases and treatment courts—Contractor shall report complete and timely data about each session in a format and manner required by IDS. In addition, if local practice is to provide representation in other cases on a per session basis—*e.g.*, civil commitments or probation violations in District Court—and this contract provides for per session representation

and compensation, Contractor shall report complete and timely data about each session in a format and manner required by IDS. If this contract does not provide for per session representation and compensation, Contractor shall report the case-specific data required by Section 6.1 or 6.2. Within seven (7) calendar days of the end of each month, Contractor shall enter all required data fields into IDS' web-based Contractor Case Reporting System for all sessions handled during the prior month.

(b) *Penalties for Incomplete or Late Reporting:* If Contractor fails to submit complete and timely data about all sessions, IDS shall withhold the next monthly payment until IDS receives the required data. If Contractor fails a second time during the duration of this contract to submit complete and timely data about all sessions, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 10%. If Contractor fails three (3) or more times during the duration of this contract to submit complete and timely data about all sessions, IDS shall withhold the next monthly payment until IDS receives the required data and may reduce Contractor's next monthly payment by up to 20% and/or terminate this contract for cause.

6.5 Submission of Recoupment Applications in Recoupment-Eligible Cases

(a) *Adult Criminal Cases:* In all adult criminal contract cases that result in a conviction or a plea of guilty or no contest, or a finding of probation violation, and all non-child support contempt cases that result in a finding of criminal contempt, Contractor shall print a completed recoupment application form from IDS' web-based Contractor Case Reporting System and submit that form to the presiding judge for entry of a civil judgment for attorney fees and the attorney appointment fee pursuant to N.C. Gen. Stat. §§ 7A-455 and 7A-455.1.

(b) *Juvenile Delinquency and Chapter 5A Contempt Cases:* In any juvenile case in which the juvenile has been adjudicated delinquent or held in contempt, and the presiding judge indicates that a judgment will be entered against a responsible person, Contractor shall print a completed recoupment application form from IDS' web-based Contractor Case Reporting System and submit that form to the judge for entry of a civil judgment for attorney fees pursuant to N.C. Gen. Stat. §§ 7A-450.2 and 7A-450.3.

(c) *Abuse/Neglect/Dependency and Termination of Parental Rights Cases:* In any abuse/neglect/dependency case in which the juvenile has been adjudicated abused, neglected, or dependent and any termination of parental rights case in which the parental rights of the respondent client have been terminated, and the presiding judge indicates that a judgment will be entered against the respondent, Contractor shall print a completed recoupment application form from IDS' web-based Contractor Case Reporting System and submit that form to the judge for entry of a civil judgment for attorney fees pursuant to N.C. Gen. Stat. § 7B-603.

(d) *Child Support Contempt Cases:* In any child support contempt case in which the defendant has been held in criminal contempt, and the presiding judge indicates that a judgment will be entered against the defendant, Contractor shall prepare an AOC-G-200 fee application form and submit that form to the judge for entry of a civil judgment for attorney fees pursuant to N.C. Gen. Stat. § 7A-455.

(e) On all applications that are submitted for recoupment purposes, Contractor shall identify the applicant as “IDS contract counsel,” not “assigned counsel.”

6.6 Reasonable Changes in Contractor Data Reporting

At any time and by written instructions, IDS may make reasonable changes to the terms and conditions of this contract regarding the timing, format, and nature of any data that is required to be reported by Contractor, including requiring Contractor to report additional case-specific data.

6.7 Enforceability After Contract Expiration or Termination

The reporting requirements set forth in this Section are enforceable after expiration or termination of this contract.

6.8 Public Records

Unless otherwise provided by law, all data reported by Contractor shall be subject to public access if required under the state public records laws.

Section 7: Caseload, Case Credits, and Extraordinary Cases and Expenses

7.1 Range of Dispositions or Hearings/Number of Sessions

(a) *Range of Dispositions—Adult Criminal, Juvenile Delinquency, and Special Proceedings:* The parties agree that Contractor’s estimated workload by contract category and number of caseload units, which is specified in Section 13.1 of this contract, is the parties’ expectation as to the range of contract cases to be disposed annually during the contract period. If, during the term of this contract, Contractor reaches the minimum number of dispositions, Contractor shall continue to accept new case assignments pursuant to this contract. If, during the term of this contract, Contractor reaches the maximum number of cases (including disposed cases and pending assigned cases), after obtaining advance IDS approval, Contractor may continue to accept new case assignments pursuant to this contract for the additional lump sum compensation set forth in Appendix B to this contract, which is incorporated herein by reference, or, after providing advance IDS notification, may decline to accept new case assignments pursuant to this contract. However, except as specified in Section 4.10 or unless IDS has terminated this contract pursuant to Section 10.2, Contractor may not decline to accept new assignments to additional charges that are brought against pending contract clients unless the IDS Director gives advance written approval. If Contractor has terminated this contract pursuant to Section 10.1, after consultation with IDS, Contractor should either continue to accept new assignments to additional factually related charges that are brought against pending contract clients or file a motion to withdraw so that all pending cases can be reassigned. In addition, if Contractor accepts any new case assignments for the lump sum compensation in Appendix B, Contractor may not decline to accept additional new case assignments within the applicable overage range in Appendix B until Contractor reaches the maximum number of cases (including disposed cases and pending assigned cases) in that range.

(b) *Range of Substantive Hearings—Abuse, Neglect, Dependency, and Termination of Parental Rights (Respondent Attorney and Respondent GAL Services):* The parties agree that Contractor’s estimated workload by contract category and number of caseload units, which is specified in Section 13.1 of this contract, is the parties’ expectation as to the range of substantive hearings to be resolved annually during the contract period. If, during the term of this contract, Contractor

reaches the minimum number of substantive hearings, Contractor shall continue to accept new case assignments pursuant to this contract. If, during the term of this contract, Contractor reaches the maximum number of substantive hearings, after obtaining advance IDS approval, Contractor may continue to accept new case assignments pursuant to this contract for the additional lump sum compensation that will be set forth in Appendix B or, after providing advance IDS notification, may decline to accept new case assignments pursuant to this contract.

(c) *Number of Sessions—Child Support Contempt, Treatment Courts, and Other Per Session Courts:* The parties agree that Contractor’s workload by contract category and session, which is specified in Section 13.1 of this contract, is the parties’ expectation as to the number of sessions to be handled during the contract period. If Contractor reaches the expected number of sessions and the courts need additional per session coverage, Contractor shall continue to accept new session assignments pursuant to this contract to the extent possible, and the monthly compensation owed to Contractor shall include payment for each session handled during the prior month and reported pursuant to Section 6.4. If Contractor is unable to accept additional session assignments, after advance IDS notification, Contractor may decline to accept additional session assignments pursuant to this contract.

7.2 Case and Substantive Hearing Credits (Caseload Unit Contracts Only)

(a) Adult Misdemeanor Contracts:

(i) Disposed Cases: Contractor will receive 1.0 credit toward the expected range of annual dispositions for each misdemeanor contract case that is disposed.

(ii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual dispositions for withdrawals after substantive work (excluding withdrawals following a failure to appear), unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

(iii) Class 3 Misdemeanor Pretrial Detainees Released from Custody: Contractor will receive 0.5 credit toward the expected range of annual dispositions for representing a defendant on a Class 3 misdemeanor offense that was allegedly committed on or after December 1, 2013 if the Court has not found that the defendant has more than three prior convictions, but the defendant is in custody and the Court appoints counsel for the limited purpose of ensuring that the defendant has meaningful access to the courts during the time period of the defendant’s confinement on the Class 3 misdemeanor charge. If Contractor represents a defendant who remains in custody through final disposition, Contractor shall receive 1.0 credit pursuant to subsection (a)(i), above.

(b) Adult Low-Level Felony Contracts:

(i) Disposed Cases:

(1) Contractor will receive 1.0 credit toward the expected range of annual dispositions for each low-level felony contract case that is disposed.

(2) If a low-level felony Contractor is assigned to and disposes of a misdemeanor charge that was brought against a previously assigned contract client while the original low-level felony was pending, but the misdemeanor charge is not disposed before the same judge at the same time in the same court, Contractor will receive 0.5 credit toward the expected range of annual dispositions for the misdemeanor disposition.

(ii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual dispositions for withdrawals after substantive work (excluding withdrawals following a failure to appear), unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

(c) *Adult High-Level Felony Contracts*:

(i) Disposed Cases:

(1) Contractor will receive 1.0 credit toward the expected range of annual dispositions for each high-level felony contract case that is disposed.

(2) If a high-level felony Contractor is assigned to and disposes of a low-level felony charge that was brought against a previously assigned contract client while the original high-level felony was pending, but the low-level felony charge is not disposed before the same judge at the same time in the same court, Contractor will receive 0.5 credit toward the expected range of annual dispositions for the low-level felony disposition.

(3) If a high-level felony Contractor is assigned to and disposes of a misdemeanor charge that was brought against a previously assigned contract client while the original high-level felony was pending, but the misdemeanor charge is not disposed before the same judge at the same time in the same court, Contractor will receive 0.25 credit toward the expected range of annual dispositions for the misdemeanor disposition.

(ii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual dispositions for withdrawals after substantive work (excluding withdrawals following a failure to appear), unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

(d) *Juvenile Delinquency Felony, Misdemeanor, and Chapter 5A Contempt Contracts*:

(i) Cases Disposed in Juvenile Court:

(1) Contractor will receive 1.0 credit toward the expected range of annual dispositions for each contract case that is disposed where the highest original charge was a misdemeanor or a Class F through I felony.

(2) Contractor will receive 2.0 credits toward the expected range of annual dispositions for each contract case that is disposed where the highest original charge was a Class A through E felony.

(3) Contractor will receive 1.0 credit toward the expected range of annual dispositions for each motion for review (for probation violations, extended commitment, post-release supervision violations, and modifications, extensions, and terminations of probation) that is disposed.

(4) Contractor will receive 1.0 credit toward the expected range of annual dispositions for each Chapter 5A contempt case that is disposed.

(5) If Contractor was previously assigned to represent a juvenile in a delinquency case, Contractor will not receive any credit toward the expected range of annual dispositions for detention hearings or status review hearings (including reclaiming futures status reviews) in the same delinquency case. If Contractor was not previously assigned to represent a juvenile in a delinquency case and was appointed solely for the purpose of handling a detention hearing or

future status review hearings, Contractor will receive 0.5 credit toward the expected range of annual dispositions for the detention hearing or for all status review hearings combined.

(ii) Cases Transferred to Superior Court: In lieu of the case credits in Section 7.2(d)(i), if Contractor waives transfer but does not continue the representation in the transferred case in Superior Court for trial as an adult, Contractor will receive 1.0 credit toward the expected range of annual dispositions for each case that is transferred. Also in lieu of the case credits in Section 7.2(d)(i), if Contractor handles a contested transfer hearing but does not continue the representation in the transferred case in Superior Court for trial as an adult, Contractor will receive 2.0 credits toward the expected range of annual dispositions for each case that is transferred, including any appeal to Superior Court of the District Court's transfer decision.

(iii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual dispositions for withdrawals after substantive work (excluding withdrawals following a failure to appear, withdrawals when Contractor was appointed solely for the purpose of handling detention or status review hearings, and withdrawals due to transfer of a case to Superior Court), unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

(e) *Special Proceedings Contracts*:

(i) Disposed Cases: Contractor will receive 1.0 credit toward the expected range of annual dispositions for each contract case that is disposed.

(ii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual dispositions for withdrawals after substantive work, unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

(f) *Abuse/Neglect/Dependency and Termination of Parental Rights Contracts (Respondent Attorney and Respondent GAL Services)*:

(i) Substantive Hearings: Contractor will receive 1.0 credit toward the expected range of annual substantive hearings for each substantive hearing that Contractor handles.

(ii) Withdrawals: Contractor will receive 0.5 credit toward the expected range of annual substantive hearings for withdrawals after substantive work on a hearing, unless Contractor withdraws because of a conflict that should have been immediately apparent or one named attorney in a contract with a law firm or non-profit withdraws and a replacement attorney designated by the law firm or non-profit is appointed pursuant to Section 3.3(c).

7.3 Review of Case Assignments to Contractor

In counties where more than one Contractor provides legal services in a contract category, IDS and Contractors shall periodically review the number and nature of cases assigned to each Contractor. If the review shows that there is a substantial disparity between the actual assignment rates and the rates contemplated under the contracts, IDS shall notify the Court, the Public Defender Office (if applicable), and Contractors that assignment rates need to be adjusted and corrected, to the extent that total cases are available.

7.4 Significant Changes in Caseload

IDS shall renegotiate with all Contractors affected by significant increases or decreases in the long-term average number of cases available for assignment, including if there are amendments to or new court interpretations of federal or state statutes that make some or all contract services ineligible for state funding, and shall seek to apportion increases or decreases in an equitable manner. Such renegotiations may include modifying the range of annual dispositions or hearings and adjusting the monthly payment to Contractors accordingly or, in the event of a decrease, requiring Contractors to refund or otherwise repay IDS on a pro rata basis or withholding monthly payments pursuant to Section 7.5(b).

7.5 Lump Sum Compensation for Overage or Refund for Shortage: Adult Criminal, Juvenile Delinquency, Special Proceedings, and Abuse, Neglect, Dependency and Termination of Parental Rights (Respondent Attorney and Respondent GAL Services)

(a) IDS and Contractor agree that the actual number of annual dispositions or substantive hearings under this contract may vary between the minimum number of annual dispositions or substantive hearings and the maximum number of annual dispositions or substantive hearings set forth in Section 13.1. If Contractor's actual number of annual dispositions or substantive hearings is within that range, there shall be no additional lump sum compensation for overage or pro rata refund for shortage.

(b) In the event that the actual number of Contractor's annual dispositions or substantive hearings is above the maximum number of annual dispositions or substantive hearings set forth in Section 13.1, Contractor shall be entitled to the additional lump sum compensation in Appendix B. If the actual number of Contractor's annual dispositions or substantive hearings is below the minimum number of annual dispositions or substantive hearings or appears to be so low that it will be below the minimum number of annual dispositions or substantive hearings, IDS may require Contractor to refund to IDS the overpayment on a pro rata basis or may withhold one or more monthly payments to prevent the need for Contractor to refund any overpayment. In determining whether to seek a pro rata refund or to withhold one or more monthly payments, IDS shall consider both the number and nature of the actual cases disposed or substantive hearings handled.

7.6 Extraordinary Cases

(a) Except as provided in Section 7.6(b), in the event that Contractor is assigned to an extraordinary case, where the issues presented require extraordinary time and effort for proper representation of the client, Contractor may apply to IDS in the manner directed by IDS for additional compensation in that case or for a reduction in the annual minimum and maximum number of dispositions or hearings under this contract. A jury trial or a contested adjudication and disposition hearing in and of itself shall not be deemed extraordinary. However, at IDS' sole discretion, extensive pretrial litigation or an extended jury trial or extended contested adjudication and disposition hearing may be deemed extraordinary. In determining whether to approve a request for additional compensation in an extraordinary case or for a reduction in the annual minimum and maximum number of dispositions or hearings, including requests for advance approval that are submitted pursuant to Section 7.6(a1), IDS shall consider the complexity of the case and other equitable factors, including but not limited to the degree to which Contractor has spent extended time on pretrial litigation, trials, and/or contested adjudication and disposition

hearings in other contract cases. Other than the limited exception in Section 7.6(a1), the amount and timing of any additional compensation that is approved by IDS pursuant to this section is at IDS' sole discretion.

(a1) If Contractor is assigned to an adult high-level felony case and Contractor believes that he or she will spend more than 50 hours on the case, Contractor shall contact the IDS Director and schedule a case consultation. After that consultation, in addition to the per unit compensation set forth in this contract, the Director may give advance written approval for Contractor to be compensated for a reasonable amount of time in excess of 50 hours at an hourly rate \$10 lower than the current private assigned counsel rate for high-level felonies, or for a specified reduction in the annual minimum and maximum number of dispositions under this contract. Contractor shall claim any preapproved additional hourly compensation or caseload reduction in the manner directed by IDS.

(b) In case types that are compensated on a per session basis based on Contractor's cost/price offer, Contractor shall not be eligible to apply to IDS for additional compensation or a reduction in the expected number of sessions for an extraordinary case.

7.7 Contractor's Routine Costs and Expenses

Contractor shall maintain sufficient staff and resources to provide for the competent representation of contract clients. Except as provided in Sections 7.8 and 7.9, Contractor agrees to pay all expenses incidental to the performance of Contractor's duties under this contract, including salaries, overhead, malpractice insurance, and all routine, reasonable, and necessary costs and expenses incurred in providing contract services, including routine travel expenses.

7.8 Extraordinary Expenses

(a) Contractor understands that routine case-related expenses are included in the monthly compensation listed in Section 13.2. However, Contractor may apply to IDS in the manner directed by IDS for reimbursement of extraordinary expenses. While the following expenses may be deemed extraordinary, the amount and timing of any reimbursement that is approved by IDS pursuant to this section is at IDS' sole discretion:

- (1) Expenses associated with necessary case-related out-of-state travel;
- (2) Expenditures for out-of-county lodging necessitated by case-related travel, whether in state or out of state; and
- (3) Other necessary case-related expenses (such as medical records, copies of voluminous discovery or photographs, or extensive case-related mileage outside of the county where the case originated) that cumulatively exceed one hundred dollars (\$100) in one contract case.

(b) Extraordinary expenses shall be claimed in compliance with the applicable IDS billing policies, which are incorporated into this contract by reference, and shall be supported by any required receipts or documentation.

7.9 Outside Costs and Expenses: Lay and Expert Witnesses and Interpreters

(a) IDS shall be responsible for paying the following expenses directly and said expenses are not included in the monthly caseload unit compensation in Section 13.2 or the per session compensation in Section 13.3:

(i) IDS shall pay the statutory fees and expenses of a necessary defense lay witness directly to the lay witness in accordance with IDS policy and upon receipt of the appropriate paperwork or, in the case of travel expenses, through direct bill to a travel agency that is under contract with IDS;

(ii) IDS shall pay the preapproved fees and expenses of a necessary defense investigator or expert directly to the investigator or expert in accordance with IDS policy and upon receipt of the appropriate paperwork or, in the case of travel expenses, through direct bill to a travel agency that is under contract with IDS; and

(iii) IDS shall pay the preapproved fees and expenses of a necessary out-of-court defense interpreter or translator directly to the interpreter or translator in accordance with IDS policy and upon receipt of the appropriate paperwork. Contractor must use an interpreter or translator that has been approved by the Administrative Office of the Courts (“AOC”) and must obtain the services of the interpreter or translator in accordance with IDS policy.

(b) AOC shall be responsible for paying the preapproved fees and expenses of a necessary in-court defense interpreter directly to the interpreter in accordance with AOC policy and upon receipt of the appropriate paperwork.

7.10 Improper Duplicate Payment for Contract Work

If Contractor receives a case-specific payment for a case that was assigned and paid through this contract, whether due to Contractor’s error or an error by IDS personnel, Contractor shall immediately notify IDS and refund the improper case-specific duplicate payment.

Section 8: Outside Practice of Law

8.1 When Permitted

Except as provided in Section 8.2, Contractor is permitted to continue representation in all indigent cases appointed prior to the effective date of this contract, as well as all indigent cases that fall outside the scope of this contract or another contract with the same Contractor, and compensation shall be awarded by the Court or Clerk on a case-by-case basis at the applicable standard hourly rate set by IDS. Except as provided in Section 8.2, Contractor is also permitted to provide representation in retained cases and in federal appointed cases.

8.2 Limitations

(a) Contractor shall not allow non-contract work to interfere with the adequate representation of clients assigned under this contract. Contractor shall not accept a retainer in a case that would create a conflict of interest with a case already assigned pursuant to this contract.

(b) In the event that this contract requires representation in five caseload units per named attorney, Contractor shall not engage in the practice of law outside of this contract without the advance written approval of the IDS Director.

Section 9: Performance Guidelines, Evaluation, and Review of Records

9.1 Performance Guidelines and Client Contact

Contractor agrees to adhere to any applicable performance guidelines that have been or will be adopted by the IDS Commission. Absent exceptional circumstances, if a contract client is in

custody and Contractor did not meet with the client at the time of assignment to the case, Contractor's initial interview with the client shall take place within three (3) business days after Contractor receives notice of assignment to the client's case. If necessary, Contractor may arrange for a designee to conduct the initial interview. Absent exceptional circumstances or unless otherwise agreed to by the client, Contractor shall make arrangements to meet with all contract clients in the county where the charges are pending.

9.2 Evaluation

To the extent ethically possible and subject to Sections 9.6 and 9.7, Contractor agrees to comply with courtroom observations, file reviews that protect client confidences, peer review, and other efforts to monitor the quality of representation being provided, as reasonably required by IDS.

9.3 Case Records and Retention

(a) Contractor shall maintain current files on individual contract cases. To the extent ethically possible, records shall be kept in a manner that enables them to be made available on request for inspection by IDS.

(b) Contractor agrees to retain all appointment and case records for contract clients for the time period required by Rule of Professional Conduct ("RPC") 209 and RPC 234, to maintain a record of all destroyed contract client files pursuant to RPC 16, and to maintain a record of all files returned to contract clients. In a serious felony case where the client is incarcerated for a time period that exceeds the minimum time period for retention of case records pursuant to RPC 209 and RPC 234, Contractor is encouraged to retain case records throughout the period of the client's incarceration.

9.4 Access to Persons and Records by IDS

(a) Subject to Sections 9.6 and 9.7, IDS may review or verify Contractor's records that relate to the performance of this contract after giving Contractor reasonable written notice. Such review may occur as often as IDS reasonably deems necessary during the contract term.

(b) Upon IDS' proper written notice and subject to Sections 9.6 and 9.7, Contractor shall provide access to its facilities and shall make records available to IDS at all reasonable times. IDS shall not remove Contractor's original office records or other property of Contractor from Contractor's premises without Contractor's approval.

9.5 Access to Persons and Records by State Auditor

Subject to Sections 9.6 and 9.7 and any other exceptions provided by law, Contractor shall allow the State Auditor access to records as a result of all contracts entered into by state agencies in accordance with N.C. Gen. Stat. § 147-64.7.

9.6 Confidential Client Records

Contractor grants no right to IDS to observe attorney/client consultations or to review information in case files that is privileged because of the attorney/client relationship or work product identifiable to a particular case or client, unless the client expressly, knowingly, and voluntarily agrees in writing. Contractor shall keep records, including time records, in such a manner as to allow IDS reasonable access to other information for review purposes. Notwithstanding any

provisions of this contract, Contractor does not waive any client's constitutional, statutory, or common law rights or privileges.

9.7 Personnel Records

Contractor grants no right to IDS to review information in any personnel file, unless Contractor's employee expressly, knowingly, and voluntarily agrees in writing. Contractor shall keep records in such a manner as to allow IDS reasonable access to other information for review purposes. Notwithstanding any provisions of this contract, Contractor does not waive any employee's constitutional, statutory, or common law rights or privileges to the confidentiality of personnel records.

Section 10: Contract Termination and Funding Modifications

10.1 Termination by Contractor

(a) Contractor may terminate this contract, or one or more contract categories contained in Section 13.1 of this contract, for cause if IDS materially breaches any duty or obligation under this contract, by giving thirty (30) calendar days advance written notice to IDS. If IDS does not remedy the breach before the thirty-first (31st) calendar day after notice was given, the contractual relationship will end on the thirty-first (31st) day. Notice of termination for cause, including the reasons therefor, shall be transmitted via U.S. Mail, certified, return receipt requested. The notice period shall begin on the day the return receipt is signed and dated.

(b) In the event that Contractor is unable to continue performing the contractual obligations or otherwise desires to terminate this contract, or one or more contract categories contained in Section 13.1 of this contract, Contractor may terminate the contract or contract category(ies) by giving thirty (30) calendar days advance written notice to IDS. When such notice is given, the contractual relationship will end on the thirty-first (31st) calendar day after notice was given. Notice of termination, including the reasons therefor, shall be transmitted via U.S. Mail, certified, return receipt requested. The notice period shall begin on the day the return receipt is signed and dated. In the event that IDS cannot identify an alternative service provider within thirty (30) days, IDS may require Contractor to extend the notice period required by this subsection for no more than thirty (30) additional calendar days.

(c) Except as provided in Section 5.3, neither termination by Contractor nor the end of the contractual relationship affects Contractor's continuing obligations in pending cases pursuant to Section 5.3. If this contract is terminated by Contractor pursuant to Section 10.1(a), Contractor shall be entitled to receive any and all past due monthly payments.

(d) At the time of termination, IDS shall compare Contractor's case credits to date (including disposed cases and pending assigned cases) to the pro rata minimum and maximum number of case credits that would be expected as of the effective date of termination. Contractor shall be entitled to retain payment for services satisfactorily rendered. However, if applicable, IDS shall be entitled to a refund of a pro rata portion of any funds advanced but not yet expended on contractual obligations. Despite the continuing obligations in pending cases pursuant to Sections 5.3 and 10.1(c), if Contractor is unable to fulfill those obligations due to a change in employment, relocation, or other similar cause and must move to withdraw, the 0.5 case credits set forth in

Section 7.2 for the necessary withdrawals shall not count toward the pro rata maximum number of case credits or toward the lump sum overage schedule in Appendix B.

10.2 Termination by IDS for Cause

(a) IDS may terminate this contract, or one or more contract categories contained in Section 13.1 of this contract, for cause by giving thirty (30) calendar days advance written notice to Contractor, for the following reasons:

(1) Contractor's or a named attorney's material breach of this contract or any contract category(ies);

(2) Contractor's or a named attorney's willful or habitual disregard of the procedures required by the courts in which Contractor provides services;

(3) Contractor's or a named attorney's demonstrated inability to provide proper and competent representation to contract clients, including but not limited to recurring problems with court appearances due to scheduling conflicts;

(4) Contractor's or a named attorney's willful or habitual failure to abide by minimum standards of performance and rules of professional ethics;

(5) Contractor's or a named attorney's willful or habitual failure to report case data in a format and timeframe mandated by IDS; or

(6) Some other cause that has substantially impaired Contractor's or a named attorney's ability to provide adequate legal services under this contract or to fulfill the obligations of this contract.

(b) Notice of termination for cause, including the reasons therefor, shall be transmitted via U.S. Mail, certified, return receipt requested. The notice period shall begin on the day the return receipt is signed and dated. If Contractor does not remedy the breach before the thirty-first (31st) calendar day after notice was given, as of the thirty-first (31st) day, Contractor shall not accept any further case assignments under this contract or the applicable contract category(ies), unless IDS otherwise agrees in writing.

(c) Except as provided in Section 5.3 and herein, neither termination by IDS nor the end of the contractual relationship affects Contractor's continuing obligations with respect to pending cases pursuant to Section 5.3. However, if this contract is terminated by IDS pursuant to this section, IDS in its sole discretion may require Contractor to file motions to withdraw pursuant to Section 4.10 and to submit written notification of the Court's rulings to IDS within three (3) business days.

(d) At the time of termination, IDS shall compare Contractor's case credits to date (including disposed cases and pending assigned cases) to the pro rata minimum and maximum number of case credits that would be expected as of the effective date of termination. Contractor shall be entitled to retain payment for services satisfactorily rendered. However, if applicable, IDS shall be entitled to a refund of a pro rata portion of any funds advanced but not yet expended on contractual obligations. In making that determination, if IDS requires Contractor to file motions to withdraw pursuant to Sections 4.10 and 10.2(c), IDS will assume that all pending assigned cases will result in 0.5 case credits pursuant to Section 7.2, and the 0.5 case credits for the necessary withdrawals shall not count toward the pro rata maximum number of case credits or toward the lump sum overage schedule in Appendix B.

10.3 Emergency Suspension

In the event of an emergency, including but not limited to a life-threatening illness of or serious allegations of misconduct against Contractor or an attorney named in this contract, IDS may take steps to immediately suspend new case assignments pursuant to this contract pending resolution of the emergency.

10.4 Availability of Funds/Funding Modification, Suspension, or Termination

(a) At the time this contract is executed, sufficient funds either are available within IDS' current appropriation or are expected to become available to finance the costs of this contract. However, any and all payments to Contractor are dependent upon and subject to the availability of funds to IDS for the purposes set forth in this contract.

(b) If the General Assembly does not appropriate sufficient funds, or if IDS otherwise reasonably believes that funds will not be sufficient to pay the anticipated costs of all contracts, IDS shall seek to apportion any necessary expenditure reductions equally and fairly among all Contractors and private assigned counsel. IDS shall seek first to modify contracts through negotiation with Contractors. IDS may suspend or terminate contracts if the parties cannot agree to a modification.

(c) In the event that sufficient funds will not be available, IDS shall give all affected Contractors a minimum of ninety (90) days advance written notice, unless such notice would be impossible due to circumstances beyond IDS' control.

Section 11: Miscellaneous

11.1 Governing Law

This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.

11.2 Situs

The place of this contract, its situs and forum, shall be Durham County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation, and enforcement shall be determined.

11.3 Rules of the IDS Commission

The Rules of the IDS Commission, including any amendments that are adopted by the Commission after the effective date of this contract, are incorporated into this contract by reference and shall apply to Contractor's representation pursuant to this contract, unless superseded by the terms of this contract.

11.4 Entire Agreement

This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. The Request for Proposals, any addendum thereto, and Contractor's offer are incorporated herein by reference. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination

date unless specifically provided otherwise herein, or unless superseded by applicable federal or state statutes of limitation.

11.5 Severability

If a court of competent jurisdiction declares or the parties agree that any term or provision of this contract is illegal or in conflict with any law, the remaining terms and provisions shall remain valid and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held or agreed to be invalid.

11.6 Amendments

This contract may be amended only by written amendments duly executed by the IDS Director and Contractor.

11.7 Waiver

Either party's failure to enforce any provision of this contract shall not constitute a waiver by the party of that or any other provision.

11.8 Other Contractors and Vendors

IDS may award other contracts for additional or related work. Contractor shall cooperate with IDS and the courts to coordinate appointment procedures and other court activities necessary for efficient and effective administration of this and other contracts for indigent defense services. Contractor shall provide reasonable assistance to non-attorney vendors in billing for services provided at Contractor's request.

11.9 Indemnity of IDS by Contractor

Contractor shall protect, indemnify, defend, and hold harmless IDS and the State of North Carolina from all liability, obligations, damages, losses, claims, suits, or actions of whatever nature that result from or arise out of the activities of Contractor or Contractor's employees or agents.

11.10 Impossibility of Performance

Neither party shall be held responsible for consequential damages for delay or default caused by theft, fire, flood, or other casualty, if the delay or default was beyond the party's reasonable control. In the event of circumstances beyond a party's control that may render timely performance by that party impossible, either party may terminate this contract, or the affected part, by following the procedures in Section 10.

SPECIFIC TERMS AND CONDITIONS

Section 12: Term {and Renewal}

12.1 Contract Term

The term of this contract shall be for {insert total term}, from {insert date} through {insert date}.

{12.2 Contract Renewal}

If the IDS Director determines that market conditions have not significantly changed and both parties agree to a renewal, this contract may be renewed for one additional two-year term without soliciting competition or public advertising. No less than 180 days prior to the expiration of this contract, Contractor shall notify IDS in writing about Contractor's desire to renew or not renew. Subject to Section 7.4 of this contract, Contractor may renew any or all caseload units or sessions that are covered by Contractor's current contract. If Contractor elects to handle fewer sessions under the renewed contract, IDS reserves the right to negotiate the sufficiency of the number of sessions proposed, taking into account court coverage and scheduling concerns.

Section 13: Contract Coverage and Compensation

13.1 Coverage

(a) *Caseload Unit Coverage:* During the term of this contract, Contractor shall provide competent legal representation to clients who have a constitutional or statutory right to counsel for the following proceedings:

County/Counties	Contract Category	# Caseload Units (over full term)	Named Attorney (if Law Firm)	Expected Range of Dispositions{<u>Substantive Hearings</u>} (over full term)
{insert}	{insert}	{insert}		{insert}

(b) *Per Session Coverage:* During the term of this contract, Contractor shall provide competent legal representation to clients who have a constitutional and/or statutory right to counsel for the following proceedings:

County/Counties	Contract Category	Named Attorney (if Law Firm)	Expected # of Sessions (over full term)
{insert}	{insert}		{insert}

13.2 Caseload Unit Monthly Compensation

(a) If Contractor has fully complied with the applicable data reporting requirements in Section 6, by the fifteenth (15th) calendar day of each month or as soon as reasonably practicable thereafter, IDS shall pay Contractor the set total amount(s) shown below, to be paid in monthly installments, for all contract categories and caseload units covered by this contract by direct deposit into an account designated by Contractor. The monthly installments represent up-front compensation for the contractual caseload in Section 13.1(a). The total compensation will be comprised of:

Contract ID #	Contract Category	# Caseload Units (over full term)	Total Compensation (over full term)
{insert}	{insert}	{insert}	\${insert}

(b) To the extent possible, IDS shall set aside sufficient funds to continue to issue timely monthly compensation to Contractor even if appropriated funds for case-by-case payments to private assigned counsel have been depleted for the fiscal year.

13.3 Per Session Compensation

(a) If Contractor has fully complied with the applicable data reporting requirements in Section 6, by the fifteenth (15th) calendar day of each month or as soon as reasonably practicable thereafter, IDS shall pay Contractor a monthly amount that covers all sessions handled during the prior month for all per session contract categories covered by this contract by direct deposit into an account designated by Contractor. The total monthly compensation will be comprised of the per session compensation listed below times the number of sessions handled during the prior month:

Contract ID #	Contract Category	Per Session Compensation (issued monthly)
{insert}	{insert}	\${insert}

(b) To the extent possible, IDS shall set aside sufficient funds to continue to issue timely monthly compensation to Contractor even if appropriated funds for case-by-case payments to private assigned counsel have been depleted for the fiscal year.

Section 14: Additional Conditions and Alternative County-Specific Definitions

14.1 Additional Conditions of Contract

(a) Prior to the execution of a contract, IDS may impose additional conditions on Contractor or an attorney named in this contract, including but not limited to requiring Contractor or the named attorney to attend specialized training and/or continuing legal education and to consult with a senior attorney designated by IDS.

(b) Pursuant to that authority, IDS hereby requires Contractor {or insert named attorney} to: {insert any additional conditions; if blank, intentionally left blank}.

14.2 Alternative County-Specific Definitions

{insert any county-specific definition(s) of a session; if blank, intentionally left blank}

Office of Indigent Defense Services

Contractor

Thomas K. Maher
Executive Director

{Name and Title of Contractor or Law Firm/
Non-Profit and Authorized Representative}

Date

Date

APPENDIX A

SCOPE OF REPRESENTATION

IDS Policy:

This policy is intended to clarify some common questions about the scope of representation of indigent clients, and is not intended to be a comprehensive or exhaustive list of contractors' or public defenders' duties to their clients. In all situations described in this policy, the assigned contractor or public defender shall first determine whether there is a potentially meritorious claim to raise, or a valid and ethical action to take on behalf of a client, and the following obligations apply only if the contractor or public defender has so determined. The following obligations do not apply after the assigned case is finally disposed at the trial level and do not extend to representation on direct appeal in the Appellate Division.

(1) Adult Criminal Cases:

(a) If a contractor or public defender is assigned to a case that ends in a deferral or diversion (including a G.S. 90-96 deferral), the contractor or public defender has an obligation to ensure that the case is dismissed if the deferral or diversion is successful or to defend the client against the charge if the deferral or diversion fails.

(b) If a client fails to appear, the assigned contractor or public defender shall continue to represent the client on the original charge(s) and any related failure to appear charge, regardless of whether the client is rearrested, until:

- (i) the prosecutor voluntarily dismisses the charge(s) with leave; or
- (ii) for a period of six (6) months after the date of the failure to appear, at which point the contractor or public defender may file a motion to withdraw.

(c) At or prior to the time of final disposition at the trial level of a client's Driving While Impaired ("DWI") case, the assigned contractor or public defender has an obligation to seek to obtain a limited driver's privilege for the client.

(d) If a client's property has been seized as part of a criminal case or pursuant to a criminal forfeiture, at or prior to the time of final disposition at the trial level of a client's criminal case, and upon request of the client, the assigned contractor or public defender has an obligation to file a petition for the return of the client's property or to contest the forfeiture.

(e) At or prior to the time of final disposition at the trial level of a client's Driving While License Revoked ("DWLR") case, and upon request of the client, the assigned contractor or public defender shall take reasonable and appropriate steps to address any issues underlying the DWLR, if those issues are in the same county as the pending DWLR case. For underlying issues in other counties, the contractor or public defender shall give the client limited advice and guidance on how the client can address the matters.

(f) If a contractor or public defender is assigned to represent a client who has one or more prior convictions in North Carolina state court that are subject to challenge (*e.g.*, a guilty plea without counsel), one or more of the prior convictions would impact the trial or sentencing in the currently assigned case, and:

- (i) The prior conviction(s) is(are) in the same county as the pending case: The contractor or public defender shall take reasonable and appropriate steps to challenge the prior conviction(s),

including filing and litigating a motion for appropriate relief (“MAR”); for an extraordinarily complex MAR, a contractor may seek additional compensation outside of the contract or a reduction in the contract’s annual minimum and maximum number of disposed cases; or

(ii) The prior conviction(s) is(are) in another county: The contractor or public defender shall write to the Chief District Court Judge or the Senior Resident Superior Court Judge in the county of the prior conviction(s) and ask the Court to appoint local counsel to investigate and potentially file a MAR; or the contractor may seek prior approval from IDS to investigate, file, and litigate a MAR in the other county for additional compensation outside of the contract or for a reduction in the contract’s annual minimum and maximum number of disposed cases.

(2) Juvenile Delinquency Cases:

(a) If a contractor or public defender is assigned to a case that ends in a deferral or diversion, the contractor or public defender has an obligation to ensure that the case is dismissed if the deferral or diversion is successful or to defend the juvenile client against the petition if the deferral or diversion fails.

(b) If a juvenile client fails to appear, the assigned contractor or public defender shall continue to represent the juvenile on the original petition(s) and any related failure to appear/secured custody order, regardless of whether the juvenile is rearrested, until:

(i) the prosecutor voluntarily dismisses the petition(s) with leave; or

(ii) for a period of six (6) months after the date of the failure to appear, at which point the contractor or public defender may file a motion to withdraw.

(c) At or prior to the time of final disposition at the trial level of a juvenile’s case, and upon request of the juvenile, the assigned contractor or public defender has an obligation to file a petition for the return of the juvenile’s property.

(3) Abuse/Neglect/Dependency and Termination of Parental Rights Cases (Respondent Attorney and Respondent GAL Services):

(a) A contractor’s or public defender’s representation includes attendance at and participation in mediations, child planning conferences, and pretrial conferences, as well as child and family team meetings to the extent possible.

(b) Prior to October 1, 2013, if a contractor or public defender is assigned to a case in which the abuse/neglect/dependency petition alleges that the client is a responsible individual pursuant to N.C. Gen. Stat. § 7B-807(a1) or the client completes a petition for judicial review and the case is consolidated with the abuse/neglect/dependency case pursuant to N.C. Gen. Stat. § 7B-324(b), the contractor or public defender has an obligation to represent the client at the responsible individuals hearing. If neither of those preconditions are met, the contractor or public defender shall have no obligation to represent the client at the responsible individuals hearing. Effective October 1, 2013, placement on the responsible individual list can no longer be consolidated with an abuse/neglect/dependency case.

(4) Child Support Contempt and Other Contempt Cases:

If a contractor or public defender is assigned to a pending child support contempt or other contempt case, including cases assigned on a per session basis, and the contractor or public defender has identified a motion that, if successfully litigated, would constitute a defense in the

contempt proceeding, such as a Rule 60 motion or a motion to challenge paternity, the contractor or public defender has an obligation to file such motion(s) because the State has introduced “the potential curtailment of the indigent’s personal liberty.” *McBride v. McBride*, 334 N.C. 124, 126, 431 S.E.2d 14, 16 (1993). The contractor or public defender shall also give the client limited advice and guidance on how the client can address other related matters, including recommending other motions such as motions to modify a child support obligation.

Adoption:

Policy adopted May 29, 2012; updated October 8, 2012, June 24, 2013, July 28, 2014, and December 1, 2014.

Authority:

G.S. 7A-498.3(c), 7A-498.5(c)(4).

APPENDIX B

LUMP SUM COMPENSATION FOR CASELOAD OVERAGE

If, during the term of this contract, Contractor reaches the maximum number of cases (including disposed cases and pending assigned cases) specified in Section 13.1 of this contract, after obtaining advance IDS approval, Contractor may continue to accept new case assignments pursuant to this contract for the additional lump sum compensation set forth in the applicable schedule below. (Overage dispositions that exceed the ranges specified below will be compensated in the same increments.)¹

IDS shall issue the lump sum payment in one installment at the end of the contract period based on Contractor's number of pending and disposed cases combined. If Contractor subsequently moves to a different range of overage dispositions because multiple pending charges against one client are ultimately resolved separately, Contractor shall be entitled to any additional lump sum compensation pursuant to the schedule below only if Contractor reports the increased overage dispositions to IDS' Contracts Administrator in writing within 30 days of when Contractor discovered or should have discovered the increased dispositions. In addition to these lump sum payments, Contractor shall be eligible to seek extraordinary pay for a case that meets the criteria in Section 7.6(a) and (a1) of this contract.

If Contractor accepts any new case assignments for the lump sum compensation in this Appendix, Contractor may not decline to accept additional new case assignments within the applicable overage range below until Contractor reaches the maximum number of cases (including disposed cases and pending assigned cases) in that range.

Adult Misdemeanors

Range of Overage Dispositions	Additional Lump Sum Compensation
1-5	\$774.00
6-10	\$1,549.00
11-15	\$2,323.00
16-20	\$3,097.00
21-25	\$3,872.00
26-30	\$4,646.00
31-35	\$5,420.00
36-40	\$6,195.00
41-45	\$6,969.00
46-50	\$7,743.00

¹ If Contractor terminates this contract early pursuant to Section 10.1 but exceeds the prorated maximum number of cases for the number of months Contractor has been paid, IDS shall apply the caseload overage schedule in this Appendix to be paid in one lump sum installment at the end of the contract term. The amount of the lump sum shall be based on the number of disposed case credits and pending assigned cases as of the last date of the contract term.

Adult Low-Level Felonies

Range of Overage Dispositions	Additional Lump Sum Compensation
1-3	\$944.00
4-6	\$1,887.00
7-9	\$2,831.00
10-12	\$3,774.00
13-15	\$4,718.00
16-18	\$5,661.00
19-21	\$6,605.00
22-24	\$7,548.00
25-27	\$8,492.00
28-30	\$9,435.00
31-33	\$10,379.00
34-36	\$11,323.00

Adult High-Level Felonies

Range of Overage Dispositions	Additional Lump Sum Compensation*
1-2	\$2,043.00
3-4	\$4,087.00
5-6	\$6,130.00
7-8	\$8,174.00
9-10	\$10,217.00
11-12	\$12,261.00

** In addition to the lump sum compensation for high-level felony overages, IDS shall pay Contractor \$60 per hour for time in excess of 50 hours in one case if preapproved by IDS pursuant to Section 7.6(a1) of this contract.*