

**ATTORNEY CONTRACT FOR PAYMENTS RELATED TO DUE PROCESS
SERVICES PROVIDED TO PERSONS WHO ARE INDIGENT FOR COSTS IN
CRIMINAL CASES AND CIVIL CASES WHERE THERE IS A STATUTORY OR
CONSTITUTIONAL RIGHT TO APPOINTED COUNSEL
(HEREINAFTER IFC CONTRACT)
(Fiscal Year 2019-2020)**

This IFC Contract is entered into by and between the Justice Administrative Commission (JAC), and _____ (Attorney) a private attorney and _____ legal entity (Legal Entity), not court-appointed, whose client or clients (client) is indigent for costs pursuant to ss. 27.52, 29.007, 39.01305, 57.081, and 57.082, F.S., or other provision of Florida law. Reimbursement pursuant to this IFC Contract shall be made payable only to the holder of the tax identification number designated at the end of this IFC Contract. Unless a waiver is granted by JAC, Attorney is required to utilize a Federal Employer Identification Number. If Attorney is permitted to use a Social Security Number, Attorney assumes the risks associated with such use including, but not limited to, interception, misuse, and identity theft. This IFC Contract applies to all clients of Attorney who are declared indigent for costs prior to the conclusion of the term of this IFC Contract. Attorney represents the indigent client either pro bono or for a fee paid by a third party or the indigent client. In consideration of the mutual covenants and provisions contained herein, the parties agree as follows:

This IFC Contract supersedes and terminates all prior Agreements or Contracts for Payments Related to Due Process Services Provided to Persons Who Are Indigent for Costs.

I. TERM

The term of this IFC Contract shall be for a period beginning on the date of execution by JAC through June 30, 2020, unless suspended or terminated sooner as provided herein. If it becomes necessary to replace this IFC Contract with another IFC Contract, then the new IFC Contract shall supersede and terminate this IFC Contract. Cases for which the client was declared indigent for costs prior to the conclusion of the term of this IFC Contract that remain open beyond the term of this IFC Contract shall be subject to this IFC Contract unless superseded by another IFC Contract.

II. SERVICES

1. Attorney contracts with JAC to pay for due process services, excluding attorney fees, reasonably required for client defense. JAC will not pay any due process costs until Attorney executes this IFC Contract and provides all documentation identified herein. JAC's obligation is contingent upon Attorney following JAC's Policies and Procedures for Indigent for Costs Counsel (hereinafter JAC Policies and Procedures) which is available under the Indigent for Costs section of the JAC website, www.justiceadmin.org/IFC/index.aspx. JAC will process bills for payment of due process

services solely for clients, who have been declared indigent by the Court and would be otherwise entitled to court-appointed counsel. Client is deemed to be the client of Attorney. Attorney shall comply with the requirements established by law, local Administrative Orders, applicable court orders, Rules Regulating The Florida Bar, and JAC Policies and Procedures for due process fees and/or due process service providers. It is Attorney's sole responsibility to remain informed of changes and updates to the JAC Policies and Procedures, local Administrative Orders, and any other controlling documents. All services are subject to a motion and order of the court.

2. Attorney shall not seek compensation for work performed by a paralegal, secretary (or other similar clerical office support), legal assistant, administrative assistant, or any other employee of Attorney's law practice. Attorney shall not bill for overhead expenses either directly or indirectly through a due process provider. Overhead expenses include, but are not limited to, expenses associated with postage, courier services, internal or in-house copying, telephone charges including long distance and collect calls, and computerized research services such as Westlaw and Lexis/Nexis. Attorney shall not bill for purchase of computer equipment including portable flash and hard drives and other storage media, portable devices such as MP3 players, office equipment, office supplies, legal materials, books, personal items, haircuts, manicures, or other such personal services for the client.

3. At the time of entry of judgment or sentencing in the case under this IFC Contract, Attorney shall be prepared to make a good faith estimate of the total amount of fees, costs, and related expenses as may be needed to protect the State's interest in recovery of costs under s. 27.52, s. 938.29, or s. 985.203, F.S. Pursuant to s. 27.52, F.S., if the client, who received due process services after being found indigent for costs, is found guilty of a criminal act by a court or jury or enters a plea of guilty or nolo contendere, the client is liable for payment of due process costs expended by the state. Attorney shall provide an accounting to the court delineating all costs paid or to be paid by the state within ninety (90) days after disposition of the case notwithstanding any appeals. If Attorney fails to provide a complete accounting of costs expended by the state and consequently costs are omitted from the lien, Attorney may not receive reimbursement or any other form of direct or indirect payment for those costs if the state has not paid the costs. Attorney shall repay the state for those costs if the state has already paid the costs. Upon application by Attorney, JAC will provide Attorney with a certificate setting forth the amounts paid by JAC as well as any unpaid bills that have not been processed for payment.

4. Attorney shall serve a copy of any accounting of costs filed with the trial court pursuant to s. 27.52, F.S., on JAC at least five (5) business days prior to any hearing on the amount of costs to be imposed against the Defendant pursuant to s. 27.52, F.S. Attorney shall provide JAC with a copy of any order imposing costs on the Defendant pursuant to s. 27.52, F.S., within five (5) business days following entry of any such order.

5. To have a client declared indigent for costs, except in cases where an attorney represents a child pursuant to s. 39.01305, F.S., on a pro bono basis which is addressed in Paragraph II(9), Attorney must file the following with the court:

- a. Written motion to have defendant/client declared Indigent for Costs;
- b. Clerk's application for indigent status; and
- c. Indigent for Costs Affidavit of Attorney's Fees.

Attorney must serve a copy of the written motion along with the affidavits upon JAC prior to the court declaring the client indigent for costs. If available, Attorney shall also provide JAC with a copy of the charging document in criminal cases. JAC is entitled to notice and an opportunity to be heard before a court declares a client indigent for costs. JAC may seek to vacate any order declaring a client indigent for costs if JAC is not afforded an opportunity to participate in the proceeding to declare the client indigent for costs. JAC must receive a minimum of five (5) business days' notice of any hearing on a motion to declare a client indigent for costs.

6. Within thirty (30) days of a court declaring the client indigent for costs, Attorney shall provide JAC with the order declaring the client indigent for costs and the charging document if not already provided in criminal cases. If Attorney has incurred due process costs paid or to be paid by JAC, Attorney shall supply JAC with a dispositional order or other court pleading showing the case has reached final disposition notwithstanding any appeals within thirty (30) days following final disposition.

7. Attorney acknowledges that any finding of indigency for costs, or the court's finding that the child meets one of the criteria specified in s. 39.01305, F.S., for eligibility of due process costs, is prospective only. Attorney shall not seek payment or reimbursement for costs incurred prior to the date the court found the client indigent for costs or the court determined that the child met one of the criteria in s. 39.01305, F.S., for eligibility of due process costs. In extraordinary circumstances, the date of indigency or child's eligibility for due process costs may relate back to the date Attorney filed the written motion to find the client indigent for costs or eligible under s. 39.01305, F.S.

8. A prior finding of indigency for purposes of appointment of counsel does not substitute for a finding that the client is indigent for costs. A finding of indigency for costs is attorney specific and will not continue to apply if a new attorney undertakes representation of the client unless the new attorney is not receiving any additional compensation from any source whatsoever.

9. Pro bono attorneys seeking to have a dependent child with certain special needs pursuant to s. 39.01305, F.S., declared partially indigent for costs must file a written motion seeking to have the child declared partially indigent for due process costs pursuant to s. 39.01305, F.S. The motion needs to indicate that Attorney is providing services on a pro bono basis and the specific special need(s) under s. 39.01305(5), F.S; and must be

served on JAC five (5) days prior to any hearing on the motion. The order declaring the child partially indigent for due process costs needs to find that the child meets one or more of the criteria specified in s. 39.01305, F.S., and that Attorney is willing to provide services on a pro bono basis. Pro bono representation of a dependent child with certain special needs continues in effect until the attorney is allowed to withdraw, is discharged by the court, the case is dismissed, or protective supervision is terminated. If the pro bono attorney arranges for supplemental or separate counsel to represent the client in appellate proceedings, this arrangement shall be implemented through the requirements of this subparagraph. Except when consent of a natural guardian or other appropriate person is obtained as authorized by s. 744.301, F.S., or other provision of Florida law, Attorney shall not initiate a civil, administrative, or appellate action on behalf of the child without Court authorization. A finding of indigency for costs will not continue to apply if a new attorney is court-appointed for compensation pursuant to s. 39.0105, F.S. However, if the new attorney undertakes representation on a pro bono basis, then the finding of indigency will continue to apply and no new finding is necessary.

10. JAC provides a secure website, *My JAC*, through which Attorney and any authorized representative(s) may track billings, submit billings, and execute contracts with JAC. Attorney is responsible for registering an account on *My JAC*. Attorney will only allow persons authorized by Attorney to have access to Attorney's *My JAC* account. Attorney is liable for the actions of any authorized persons as if Attorney had performed the action personally including, but not limited to, submitting or signing documents on behalf of Attorney. Attorney has the sole responsibility for taking action necessary to maintain security of Attorney's *My JAC* account including, but not limited to, changing passwords for the account if an authorized person leaves Attorney's employ. For security purposes, Attorney grants JAC the authority to collect client internet protocol (IP) addresses and browser information when Attorney logs onto *My JAC*.

11. Attorney shall submit any billing for reimbursement of due process costs and related expenses through the JAC's Online Billing Submission system located on *My JAC*. Attorney shall approve or reject any billing for due process services submitted by a due process vendor through *My JAC* as soon as feasible, generally no more than 10 business days after notification that a due process vendor has submitted a billing.

III. DUE PROCESS COSTS

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

2. Pursuant to ss. 27.425 and 27.5305, F.S., the rates for due process services are established annually in the General Appropriations Act. To the extent that there are no rates adopted by the General Appropriations Act for a type of service in a particular judicial circuit, JAC may adopt maximum rates which will be posted on the JAC website. For

purposes of this IFC Contract, the phrase "Established Rates" is defined as the rates established annually in the General Appropriations Act and the rates established by JAC where there are no rates established by the General Appropriations Act. The Established Rates are subject to change and may be amended from time to time during the course of this IFC Contract. It is Attorney's responsibility to remain informed of changes and amendments to the Established Rates. The Established Rates shall be posted on JAC's website at https://www.justiceadmin.org/court_app_counsel/formsandrates.aspx#rates.

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

4. Attorney agrees that if a due process vendor or other entity providing services to the defense does not have a contract with JAC or is unwilling to bill JAC directly, then Attorney shall pay the vendor or other entity and seek reimbursement from JAC as provided herein. Although a contract is generally not required for other state entities, a state entity must be willing to bill JAC directly in order for JAC to make direct payment to the state entity.

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

6. Except when prior court approval is not required pursuant to the express terms of the Florida Statutes, the General Appropriations Act, or JAC Policies and Procedures, a motion for due process costs must be served upon JAC prior to a court entering an order authorizing or otherwise approving due process costs. Attorney agrees and acknowledges that the existence of an administrative order or local rules authorizing costs without prior court approval does not relieve Attorney from filing a motion seeking prior approval or authorization for due process costs. JAC is entitled to at least five (5)

business days' notice of any hearing set on a motion for due process costs. JAC's failure to respond to a motion for due process costs shall not be deemed a waiver of JAC's right to be heard regarding the authorization for due process costs. Attorney shall not seek to obtain a court order prior to obtaining a response from JAC. If Attorney obtains an order in violation of this subparagraph, Attorney agrees not to contest any motion to vacate filed by JAC.

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

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

9. A motion seeking authorization or additional funds for a private investigator, interpreter, mitigation specialist, or an expert shall set forth the particularized need for the requested services based on the circumstances of the case. Attorney is responsible for tracking the amounts incurred by a private investigator, interpreter, mitigation specialist, or an expert and filing an appropriate motion for additional funds before the exhaustion of the prior order(s) authorizing due process services.

10. Attorney acknowledges that any private investigator retained in this matter providing services in Florida must be licensed pursuant to Florida law. JAC is not authorized to pay for any private investigator services provided in Florida by a person not properly licensed pursuant to Florida law.

11. Attorney agrees that the role of a private investigator is limited to providing investigative services such as locating and interviewing witnesses; locating and securing documents and other evidence relevant to the case; performing background checks; and researching any other factual issues relevant to the case such as credibility and character of witnesses. Where private service of process is authorized, an investigator can also serve subpoenas on ordinary non-law enforcement witnesses; however, the investigator can only bill the flat rates applicable for private service of process regardless of the amount of time spent serving the subpoena. Attorney agrees investigator is not a substitute for a paralegal or secretary and cannot be used to perform administrative tasks including, but not limited to, retrieving discovery from the state attorney; copying documents from a court file; delivering materials to the defendant; or any other tasks of a paralegal or secretarial nature. If multiple investigators are employed on a case, only one investigator should be assigned or compensated for any particular task. Also, JAC shall only compensate a single investigator for attendance at meetings with Attorney or other members of the defense team regardless of the number of investigators that attend the meeting. JAC will not pay for any time related to training investigators or investigator

interns. If an investigator accepts cases for a circuit outside the location of the investigator's office, the investigator cannot seek reimbursement for travel time, mileage, lodging, or any other travel expenses to travel to the circuit of the case absent specific authorization from the Court. A private investigator providing services on a case shall not provide expert or mitigation specialist services on the same case.

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

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

14. If Attorney intends to procure due process services at rates higher than the Established Rates, Attorney must file a written motion setting forth the basis for the higher rate with service upon JAC. Attorney has the burden to establish that the particular due process service is necessary to the defense of the case, and that Attorney made a diligent effort to find the service within the Established Rates. A prior authorization for a higher rate for the same or similar services in an unrelated proceeding shall not relieve Attorney from diligent efforts in the case at issue. In order to obtain reimbursement, the order must contain a finding that the due process service is necessary to the defense of the case, and that Attorney made a diligent effort to find the service within the Established Rates. Diligent effort includes, but is not limited to, evidence that Attorney sought the services of at least three providers willing to work on the case but none were willing to work within the Established Rates. Absent an order expressly authorizing a rate in excess of the Established Rates, JAC will only pay or reimburse for due process services at the Established Rates. If Attorney procures services at a higher rate, Attorney is solely responsible for paying the difference.

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

16. For interpreting services, JAC is responsible for services provided outside the court such as depositions and witness interviews. JAC is not responsible for payment of interpreting services provided in court or at other judicial proceedings such as grand jury proceedings and proceedings before a general magistrate. JAC is also not responsible for payment of interpreting services for Attorney to communicate with Attorney's client because such services constitute a cost of representation rather than a due process cost.

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

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

19. JAC will not pay for any transcript that is not authorized by court order. The court order must be attached to the bill for said transcripts. Attorney must provide the court reporter with a copy of the order of appointment and the order authorizing the transcript. Absent exigent circumstances, Attorney shall not seek approval for transcription of a deposition or hearing before the deposition or hearing has occurred. In determining the number of pages to be billed, JAC will pay for a title page; index, appearance and/or contents page(s); the transcription of the testimony of the proceeding or deposition; one errata sheet for a deponent or witness; and necessary court reporter certification page(s) at the conclusion of the transcript. JAC will not pay for any pages containing word indexes, summaries, or similar information unless specifically required by court rule. All transcripts must comply with the minimum formatting requirements set forth in Florida Rule of Judicial Administration 2.535(f).

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

21. JAC may pay for the cost of one original transcript of any deposition, hearing, or other proceeding. Any other payment for a transcript of that same deposition, hearing, or other proceeding, regardless of whether the transcript is an additional original transcript or a copy, shall be at the rate paid for a copy of a transcript. This subparagraph applies regardless of which state agency or other person or entity pays for the first original transcript. JAC pays rates for regular delivery (10 business days) unless Attorney has filed a motion justifying expedited rates and the court has entered an order authorizing expedited rates.

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

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

24. Attorney shall not obtain due process services for his or her client from a due process provider or other business entity of which Attorney or Attorney's spouse or child is an officer, partner, director, or proprietor or in which Attorney or Attorney's spouse or child, or any combination of them, has a material interest in any form whatsoever. Attorney shall also not obtain due process services for his indigent for costs clients from a due process provider or other business entity with whom Attorney shares any form of financial interest including, but not limited to, joint ownership of property. Attorney shall not solicit or accept anything of value to Attorney, including a gift, loan, reward, promise of future employment, favor, or service, from a due process provider or other business entity who provides due process services to Attorney's client.

25. Signing the Invoice/Voucher Cover for a due process provider is not a ministerial act. By signing the Invoice/Voucher Cover, Attorney is certifying that the services provided by the due process provider were satisfactorily performed and were necessary. Attorney is solely responsible for verifying the services listed on the JAC Invoice/Voucher Cover are an accurate representation of the due process services received by Attorney. If Attorney knew or should have known that the information contained on an Invoice/Voucher Cover was inaccurate at the time the Attorney executed the

Invoice/Voucher Cover and this results in an overpayment to the due process provider, Attorney is jointly liable with the due process provider for any recoupment of the overpayment by JAC as provided herein.

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

IV. LICENSES/FLORIDA BAR MEMBERSHIP

It shall be the sole responsibility of Attorney to comply with all applicable federal, state, county, and municipal statutes, ordinances, rules, and regulations in the performance of Attorney's obligations under this IFC Contract. Attorney shall, throughout the term of this IFC Contract, be a member in good standing with The Florida Bar.

V. INDEPENDENT CONTRACTOR

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

VI. NO ASSIGNMENT

Attorney shall not delegate or assign this IFC Contract or any reimbursement for due process costs owed to Attorney under this IFC Contract.

VII. BILLING REQUIREMENTS FOR REIMBURSEMENT OF DUE PROCESS COSTS

1. Attorney shall submit to JAC all bills for due process costs within ninety (90) days after final disposition of the case. The filing of an appeal does not stay the time for submitting a bill relating to representation at the lower court level even if Attorney represents the client on appeal. For any bill submitted to JAC more than ninety (90) days after final disposition, in accordance with s. 27.5304, F.S., the allowable due process costs shall be reduced by fifteen (15) percent. The reduction is a contractual penalty for failing to submit a bill in a timely fashion as required by s. 27.5304, F.S. A bill shall not

be deemed submitted to JAC until all of the documents required under JAC Policies and Procedures have been received by JAC. For cases that reached final disposition prior to May 24, 2007, May 24, 2007 shall be deemed to be the date of final disposition for purposes of this sub-paragraph. In the event a bill from a due process provider is subject to this penalty, Attorney bears legal responsibility for the penalty as provided above.

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

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

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

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

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

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

6. Attorney and/or Legal Entity shall designate who shall receive reimbursements from JAC under this IFC Contract. Except for direct payments to due process providers as set forth above, payment by JAC under this IFC Contract may only be made to Attorney or Legal Entity. Attorney and Legal Entity shall hold JAC harmless from any and all liability which might arise from any dispute or litigation as a result of a payment by JAC.

7. Attorney requests for reimbursements of due process service provider fees, costs, or related expenses shall be supported by documentation that includes, but is not limited to, the written motion to declare client indigent for costs, clerk's application for indigency, affidavit attesting to the estimated amount of attorney's fees, order declaring the client indigent for costs, the charging document, the vendor invoice and proof of payment, and a court order authorizing services. Attorney is responsible for certifying all invoices from a due process provider.

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

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

10. Except for witness fees authorized by law, Attorney shall not seek compensation or reimbursement by JAC for fees, costs, or related expenses associated with being called as a witness in any proceeding related to Attorney's services under this IFC Contract including, but not limited to motions, for post-conviction relief.

11. Attorney shall provide JAC with a minimum of five (5) business days' notice of any hearing on a motion relating to due process costs.

12. Attorney agrees to not object or otherwise contest any request by JAC to appear telephonically at any hearing or other judicial proceeding related to due process costs or or related expenses.

13. Attorney shall be familiar with the statutory and contractual requirements for submission of billings to JAC. It is Attorney's responsibility to verify that all necessary documentation required for payment of a billing is submitted to JAC prior to or with the initial submission of a billing. Repeated failures to submit billings that comport with statutory and contractual requirements constitute good cause for JAC to terminate this IFC Contract.

14. Any letter of objection or no objection, or audit deficiency notice shall expire one year from the date of issuance. If Attorney or due process provider fails to act on the

letter or notice within one year of issuance, the billing shall be deemed abandoned without further notice.

VIII. RECORD RETENTION/AUDIT/PUBLIC RECORDS

1. Attorney shall keep contemporaneous detailed records to enable JAC to verify all costs and expenses paid under this IFC Contract. The records shall include supporting documentation necessary to adequately evaluate and substantiate payments made under this IFC Contract.

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

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

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

5. Attorney agrees to retain and make available for inspection and audit at Attorney's place of business, upon reasonable notice, all books, statements, ledgers, and other financial records relating to services under this IFC Contract for a period of five (5) years from the date of each payment, or until all Federal or State audits that may relate to each payment are complete for the applicable fiscal year, whichever is later, unless ordered sealed by the Court. This requirement applies to JAC and other state entities with authority to audit or review Attorney's records including, but not limited to, the Auditor General and the Office of Fiscal Integrity. For purposes of this subparagraph, fourteen (14) days' notice shall be deemed reasonable notice.

6. The refusal to allow JAC to inspect contemporaneous records as provided herein is a material breach of this IFC Contract.

7. To the extent that Attorney's records constitute public records under Florida law, Attorney must comply with the requirements of Ch. 119, F.S., and other provisions of Florida law relating to public records. Attorney is solely liable for any fee or costs assessed against Attorney if Attorney fails to comply with a request for public records pursuant to Florida law. In assessing whether records possessed by Attorney constitute public records, Attorney should be familiar with Kight v. Dugger, 574 So. 2d 1066 (Fla.

1990), which concluded that files held in furtherance of representation of an indigent client are not public records.

IX. ELECTRONIC COMMUNICATION AND ELECTRONIC FUNDS TRANSFER

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

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

3. Attorney agrees to provide JAC with an electronic copy of any legal pleading in the manner directed by JAC Policies and Procedures. Any motion, order, or other legal pleadings for which JAC is an interested party shall be sent by email to the email address designated for service of legal pleadings. Legal pleadings including orders will not be deemed served on JAC until an electronic copy has been provided in accordance with JAC Policies and Procedures. Any response to a billing audit deficiency that does not contain a legal pleading shall be sent to the email address designated for responses to audit deficiencies. Attorney shall not send more than one electronic copy of any legal pleading or other document to JAC. Prior to resubmitting any document, Attorney shall verify that JAC has not received the document. Absent exigent circumstances, Attorney shall not provide any legal pleading or other document to JAC via facsimile without prior consent.

4. If Attorney intends to seek reimbursement for due process costs expended in this matter, Attorney shall participate in a direct-deposit program under which Attorney authorizes the transfer of funds electronically to an account in the Attorney's or Legal Entity's name at a federal-chartered or state-chartered financial institution. If Attorney seeks an exemption from this provision, Attorney must submit in writing a request for exemption specifically delineating why Attorney cannot comply with this provision. JAC may exempt Attorney from compliance with this provision only if JAC determines that participation in a direct-deposit program creates a financial hardship for Attorney.

X. TERMINATION

1. JAC shall have the right to terminate this IFC Contract immediately if, in its sole opinion, Attorney or Attorney's agents or employees fail to comply with the terms of this IFC Contract. Such failure shall constitute a material breach of this IFC Contract by Attorney. In the event of breach of duty in a case by Attorney, Attorney shall not be entitled to payment of Attorney's due process costs and related expenses for work performed except by court order.

2. Prior to determining whether to terminate this IFC Contract, JAC may temporarily suspend the IFC Contract immediately, if, in its sole opinion, Attorney fails to comply with the terms of this IFC Contract. A temporary suspension limits Attorney to reimbursement for due process costs only. JAC will not make direct payment to due process providers during the term of the suspension. A temporary suspension shall remain in effect until lifted by JAC or this IFC Contract is terminated. The decision to temporarily suspend the IFC Contract shall in no way bar JAC from deciding to terminate the contract for the conduct resulting in the temporary suspension.

3. Notice of suspension or termination of this IFC Contract must be in writing and sent via email to the email address(es) designated pursuant to this contract.

4. JAC, at its sole discretion, may suspend this IFC Contract pending Attorney's failure to maintain status in good standing with The Florida Bar for infractions that are curable.

XI. NO WAIVER/GOVERNING LAW

1. No waiver by either party of any existing default by the other party shall be deemed to waive any subsequent default. All rights hereunder are cumulative, not alternative, and are in addition to any other rights given by law. The validity, construction, and interpretation of this IFC Contract shall be governed by the laws of the State of Florida and the Florida Constitution.

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

3. For purpose of the applicable statute of limitation under general law, any cause of action for compensation in relation to process costs under this IFC Contract accrues the date the case reached final disposition notwithstanding any appeals. For purposes of this paragraph final disposition means:

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

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

4. Attorney waives the right to seek compensation either directly or indirectly on behalf of due process providers in relation to due process costs once the statute of limitation has expired.

XII. SEVERABILITY

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

XIII. AMENDMENT OF IFC CONTRACT

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

XIV. MISCELLANEOUS PROVISIONS

1. Attorney shall provide JAC any pleading, motion, or other legal document a minimum of five (5) business days before any hearing on said pleading, motion, or other legal document. Attorney shall provide JAC copies of all attachments to said pleading, motion, or other legal document.
2. Attorney shall affix Attorney's name and bar number on all communications addressed to JAC. Attorney shall keep JAC informed at all times of Attorney's current name, address, telephone and facsimile numbers, email address, and tax identification number. Notification of changes shall be provided in writing to JAC. Attorney shall be responsible for keeping JAC informed of the name, address, telephone and facsimile numbers, email address, and tax identification number of due process service providers utilized by Attorney.
3. If Attorney discovers any information that would raise a concern as to the ongoing indigency of the client, then the Attorney shall either advise the court and JAC of the changed circumstances or move to set aside the finding of indigency.
4. Travel expenses of a privately retained attorney are considered part of overhead and are not an expense for which Attorney can seek reimbursement. To obtain reimbursement for travel expenses for Attorney representing client *pro bono*, due process providers, or witnesses, Attorney must follow the requirements set forth in s. 112.061, F.S.; the Department of Financial Services (DFS) Regulations; and JAC Policies and Procedures. JAC's specific travel procedures are posted on the JAC's website, and Attorney shall abide by these procedures. Attorney may bill only for authorized travel

expenses. Attorney must obtain a court order identifying the approved traveler and the purpose of the travel. If any hotel rate will exceed \$150 per night, Attorney shall include the hotel rate in the motion seeking authorization for travel expenses. Any time spent by a vendor making travel arrangements and preparing travel vouchers is considered clerical work and is therefore not billable. Attorney must submit a completed DFS approved travel voucher with any request for reimbursement for travel expenses, including, but not limited to, any request for reimbursement for mileage. When authorized, mileage will only be reimbursed for distances exceeding fifty (50) miles one way. Reimbursement for mileage is limited to actual mileage traveled using a personal vehicle. JAC reimburses for the actual mileage incurred during a trip. When Attorney travels on multiple cases, the total amount of mileage billed across those cases cannot exceed the actual distance traveled. Attorney cannot seek reimbursement for the same mileage traveled in more than one case. Mileage must be apportioned appropriately so that Attorney receives compensation for the actual mileage traveled using a personal vehicle. Failure to submit a properly completed travel voucher constitutes a waiver of any right to obtain travel expenses.

5. In dealing with JAC and its staff, Attorney and Attorney's staff or representatives shall act in a professional and respectful manner. Behaviors that contribute to a hostile, humiliating, or intimidating work environment, including sexual harassment, bullying, and abusive language or behavior, are unacceptable.

6. In criminal cases, JAC may pay for clothing necessary to satisfy due process concerns at a jury trial. Before seeking authorization to obtain clothing for use by a criminal defendant at jury trial, Attorney will need to contact: (1) the Defendant and his or her family; and (2) the Office of the Public Defender or other applicable local entity to determine if court-appropriate clothing is available. If Attorney is unable to obtain clothing through these sources, Attorney may file a motion seeking authorization to obtain clothing for use by the Defendant. The purchase of court-appropriate clothing shall be through the most economical means available such as purchase from discount retailers or second-hand retailers. Upon conclusion of the case, any clothing purchased for use by the Defendant should be turned over to the Office of the Public Defender or other applicable local entity for potential use by other defendants.

7. In appropriate circumstances and at its discretion, JAC may prepay for travel expenses for ordinary witnesses. Prepayment is generally limited to purchase of airline tickets and hotel rooms. Travel expenses of Attorney and due process providers is through reimbursement only. If JAC prepays for travel expenses for ordinary witnesses, any credit or refund as a result of changes to the reservation or for cancellation are due to the State of Florida and should be directed to JAC in the manner directed by JAC. Attorney is responsible for ensuring that any credit or refund is directed to JAC. For JAC to prepay travel, Attorney must supply JAC with all necessary documentation to arrange the travel and a DFS travel voucher signed by the traveler and Attorney as soon as feasible following the completion of any prepaid travel. Attorney is responsible for notifying JAC of any requested changes to travel arrangements as soon as feasible. Attorney will be responsible for any increases in travel expenses that result from a failure to notify JAC promptly.

8. JAC maintains a searchable database on its website listing due process providers with current JAC Due Process Contracts. JAC does not verify the professional qualifications of these due process providers. It is the sole responsibility of Attorney hiring due process providers to verify their professional qualifications. The inclusion of a due process provider on JAC's searchable database listing due process providers in no way suggests or implies JAC's approval or endorsement of that due process provider.

XV. ENTIRE CONTRACT

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

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

ATTORNEY:

Attorney Signature

Date

Type Name of Attorney
Florida Bar Number
Legal Entity (if applicable)
Mailing Address
City, State and Zip Code
Email address
Telephone Number
Fax Number

REMITTANCE DESIGNATION FOR REIMBURSEMENT OF COSTS OR RELATED EXPENSES TO ATTORNEY (ONLY NECESSARY IF ATTORNEY INTENDS TO SEEK PERSONAL REIMBURSEMENT FOR DUE PROCESS COSTS EXPENDED BY ATTORNEY. IF ATTORNEY INTENDS TO SEEK SUCH REIMBURSEMENT, THE ATTORNEY WILL NEED TO SUBMIT A SUBSTITUTE FORM W-9 TO DFS.)

Name of Attorney or Legal Entity
Federal Employer Identification
Number*

- Attorney hereby certifies that a Substitute Form W-9 has been submitted to DFS. All attorneys obtaining reimbursement from JAC are required to submit their Substitute Form W-9 on DFS' Vendor Website at <https://flvendor.myfloridacfo.com>.
- I certify I will not be seeking reimbursement for costs from JAC.

*** A DFS SUBSTITUTE FORM W-9 FOR THE PAYEE MUST BE ON FILE WITH DFS.**

STATE OF FLORIDA, JUSTICE ADMINISTRATIVE COMMISSION

Alton L. "Rip" Colvin, Jr.
Executive Director

Date