

## CONTINGENCY FEE AGREEMENT WITH OUTSIDE COUNSEL

### Agreement #00000000000000000063199

This Agreement ("Agreement") is between the State of Indiana acting by and through the Office of the Indiana Attorney General ("the Attorney General" or "the State") and the law firm of Cooper & Kirk, PLLC with offices at 1523 New Hampshire Ave., N.W., Washington D.C. 20036 ("Counsel").

**WHEREAS**, the State requires the services of a law firm to assist in evaluating and pursuing a potential cause of action against TikTok and any related company, organization, individual, official, or governmental entity for violations of Indiana or federal law by intentionally distributing a dangerous product or service without adequate warning to consumers, violating Indiana's deceptive consumer practices act, and/or publicly misrepresenting the dangers its product poses to consumers, particularly children.

**NOW THEREFORE**, the parties agree as follows:

#### 1. Scope of Legal Services.

A. Counsel shall represent the State in pursuing the State's legal rights to recover equitable relief, damages, compensation, fines, penalties, fees, and costs to which the State may be entitled from the Defendant(s) for violations of Indiana's Deceptive Consumer Sales Act or any other applicable law (the "Legal Services"). Any subsequent investigation or litigation undertaken by the Attorney General against TikTok or related Defendants beyond the scope of this Agreement shall not entitle Counsel to recovery or payment. Counsel shall execute its responsibilities by following and applying the highest professional standards. If the State becomes dissatisfied with the work product or the working relationship with any individual assigned to work pursuant to this Agreement, the State may request in writing the replacement of any or all such individuals and Counsel shall grant such request.

B. Pursuant to Ind. Code § 4-6-5-3, the Indiana Attorney General hereby appoints, employs, and hires Counsel to provide the Legal Services.

C. Counsel shall keep the State advised of the following:

- (1) The status and progress of the matter generally;
- (2) Provide a quarterly report that includes progress on the matter and any significant updates or developments in the case;
- (3) Regular updates and reporting concerning the lawyer and nonlawyer staffing utilized to litigate the matter and the amounts of hours and costs incurred in the investigation and litigation;
- (4) Any significant new issues that arise, whether procedural, legal, factual or substantive;
- (5) Any existing issues for which there are significant new developments to report;
- (6) Any material developments relating to the negotiation of a settlement prior to litigation;
- (7) Any filing, hearing, or imminent decision (or a decision) of dispositive motions;
- (8) Any scheduling of a matter for mediation, and the current financial disparity and issues expected to be involved in the mediation;
- (9) Any trial setting that appears likely to become the actual date upon which the matter may be tried;
- (10) As soon as is practicable, any imminent final disposition, or a final disposition, of the matter; and
- (11) Any allegation of record that arises from either the tribunal or any party raising issues of ethical breach or other violation of law or disciplinary rule by Counsel, or any person employed by or associated with the foregoing or with the Office of Attorney General.

D. Failure to comply with any of the provisions in Paragraph 1.C. may result in the withdrawal of the Attorney General's consent.

E. The Attorney General's Office shall vet and approve all experts, investigators, and contractors prior to their retention by Counsel.

F. The retention of Counsel under this Agreement is intended to aid the Attorney General in representing the State of Indiana against the Defendant(s). The Attorney General will be actively involved in all stages of matters and will be the ultimate decision-maker on all material aspects and issues, including (but not limited to) whether and when to file suit; whom to sue; what claims to assert in any suit; and whether and on what terms to settle or proceed to trial. The State shall maintain unrestrained veto power over any decision made by Counsel and, in the context of litigation, this power shall include the right to review and reject any motions or other pleadings. At the discretion of the Attorney General, the Attorney General shall be co-counsel of record in any litigation undertaken. Any decision, whether or not litigation is involved, with respect to the State shall be made at the State's sole discretion after consultation with Counsel. Counsel has no authority to settle any aspect of the potential claims on behalf of the State except under direction of the State in accordance with Ind. Code § 4-6-2-11. The State has appointed Lori Torres, Scott Barnhart, and Betsy DeNardi to personally oversee this representation ("State Representatives"). The State Representatives shall be apprised of all pertinent information relating to the Litigation and all settlement conferences or mediations relating to the State and, at their option, may attend and participate in same.

G. The Attorney General's Office may, by provision of written notice, instruct Counsel to suspend performance on any or all of the Legal Services for a specified period of time.

## **2. Consideration and Payment.**

A. This is a contingency fee contract. The parties have agreed to the following contingency fees, which do not exceed the maximum percentages permitted by Ind. Code § 4-6-3-2.5(g):

- (1) Zero percent (0%) of any recovery that is two million dollars (\$2,000,000) or less.
- (2) Twenty-five percent (25%) of any recovery that exceeds two million dollars (\$2,000,000) and that is not more than ten million dollars (\$10,000,000).
- (3) Twenty percent (20%) of any part of a recovery of more than ten million dollars (\$10,000,000) and not more than fifteen million dollars (\$15,000,000).
- (4) Fifteen percent (15%) of any part of a recovery of more than fifteen million dollars (\$15,000,000) and not more than twenty million dollars (\$20,000,000).
- (5) Ten percent (10%) of any part of a recovery of more than twenty million dollars (\$20,000,000) and not more than twenty-five million dollars (\$25,000,000).
- (6) Five percent (5%) of any part of a recovery of more than twenty-five million dollars (\$25,000,000).

Pursuant to Ind. Code § 4-6-3-2.5(g), the aggregate contingency fee may not exceed fifty million dollars (\$50,000,000), excluding reasonable costs and expenses, regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery.

B. The State shall receive and hold all recoveries received and deposited as instructed by the Attorney General. The State shall remit to Counsel the net amount due to Counsel under Paragraph 2.A in accordance with the timing and the procedures regarding submission of invoices set forth in Paragraph 2.H and accompanied by an accounting showing the gross amount received, any reasonable costs and expenses properly attributed to the matter, and the calculation of reasonable attorneys' fees.

C. The State, provided it approves such fees or costs in writing in advance, shall reimburse Counsel for all court costs and filing fees regardless of whether a recovery is actually made. Such reimbursement includes any fees or costs associated with the use of a process server, writ of execution, recordation, sheriff's levy, abstract, or other locater service.

D. Counsel shall be responsible for paying all internal, litigation-related expenses of Counsel, including (but not limited to) costs related to copies and office supplies, as well as all fees relating to factual discovery and document review, including (but not limited to) document review fees, case management costs, document hosting and storage fees, and fees related to acquisition of attorney work product from related actions pertinent to factual discovery or review of documents. Fees relating to the engagement and use of expert witnesses, as well as court fees and appearance fees shall be the responsibility of Counsel. These fees for which the State will bear ultimate responsibility shall be paid by the State only as follows. Counsel shall advance all such costs and expenses on behalf of the State. Counsel shall not submit to the State an invoice for such costs and expenses on an interim basis, but instead shall keep a detailed accounting during the course of the representation and notify the State pursuant to the parameters outlined in paragraph 1(c). In the event of any recovery by the State in connection with this representation, the State agrees that Counsel shall then be paid for all such advanced costs and expenses from the State's share of recovery. In the event litigation is dismissed, or the State recovers an amount that does not exceed the reimbursable costs and disbursement detailed herein, the State recovers nothing, or Counsel is terminated without cause, the State agrees it may seek a legislative appropriation to reimburse reasonable costs. Counsel understands and acknowledges that the State's obligation to pay for such costs and expenses under said circumstances is entirely subject to and conditioned upon a legislative appropriation outside the control of the State, and Counsel may seek a recovery for such costs and expenses only from funds so appropriated.

E. The parties acknowledge that Counsel represents or may have represented other plaintiffs or claimants in similar litigation or settlements against the Defendant(s) and that costs and expenses for the State and other plaintiffs or claimants may overlap. To the extent possible, Counsel agrees to reasonably apportion such overlapping costs and expenses among the relevant clients; however, costs and expenses incurred specific to State shall be paid solely by the State and shall not be apportioned.

F. If Counsel represents any other governmental entity in litigation related in type to that detailed in Paragraph 1, and agrees to represent such entity for a contingency fee lower than that set forth in Paragraph 2.A, the contingency fee described herein shall be reduced to meet that lower percentage. It is the intent of Counsel to provide the State of Indiana with the best price it offers for its services. Provided that this paragraph shall not apply if Counsel accepts a contingency fee lower than that set forth in Paragraph 2.A from a governmental entity that has an established policy or statute restricting that entity's payment of contingency fees.

G. As required by Ind. Code § 4-6-3-2.5(f) governing private attorney contingency fee contracts, Counsel shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of not greater than one-tenth (1/10) of an hour and shall notify the Attorney General pursuant to the parameters outlined in paragraph 1(c). Counsel shall follow generally accepted accounting principles for all financial records related to the matter.

H. All payments, if required, shall be made thirty-five (35) days in arrears in conformance with State Fiscal policies and procedures and, as required by IC § 4-13-2-14.8, by electronic funds transfer to the financial institution designated by Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC § 4-13-2-20.

**3. Term.** The term of this Agreement shall begin upon approval of the last State signatory and be effective for a period of four (4) years. This Agreement may be renewed for a period not to exceed the original term upon written agreement by both parties.

**4. Access to Files and Records.** The State shall have full, immediate, and unrestricted access to the files and work product of the Counsel during the term of this Agreement. Upon termination or expiration of this Agreement, Counsel shall, without further request and at no cost to the State, turn over to the State all files relating to the work performed under this Agreement. Counsel acknowledges that it may be required to submit to an audit of funds paid pursuant to this Agreement, and shall maintain at its offices all books, accounting records, and other evidence pertaining to costs incurred and invoiced under this Agreement. Any such audit shall be conducted in accordance with Ind. Code § 5-11-1-1, et seq., and audit guidelines specified by the State. Such materials shall be available during the term of this Agreement and for three (3) years from the date of termination or expiration, for inspection by the State or its authorized designee. Copies thereof shall be furnished at no cost to the State if requested.

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

**6. Changes in Work.** Counsel shall not change the scope of the Legal Services to be performed pursuant to this Agreement or undertake additional work on behalf of the State unless authorized in writing by the Attorney General. No claim for additional compensation shall be made in the absence of a prior written agreement.

**7. Compliance with Licensing Requirements.**

A. Counsel, its partners and employees shall comply with all applicable registration and licensing requirements, rules, standards and codes of conduct governing the practice of law and the transaction of business regarding this Agreement.

B. Counsel shall immediately notify the State if any disciplinary actions are brought against it or any of its attorneys in any jurisdiction.

C. Counsel certifies, by entering into this Agreement, that neither it nor any of its partners, associates or any other attorney associated with Counsel is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana.

D. The name of the State of Indiana or the Indiana Attorney General's Office shall not be used in any advertising or other promotional context by Counsel without prior written consent of the Attorney General's Office. Counsel shall not respond to media inquiries and shall immediately inform the Attorney General's Office of any such inquiries.

**8. Compliance with Laws.**

A. Counsel and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in Ind. Code § 4-2-6, et seq., Ind. Code § 4-2-7, et seq. and the regulations promulgated thereunder. **If Counsel has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in Ind. Code § 4-2-6-1, has a financial interest in the Agreement, Counsel shall ensure compliance with the disclosure requirements in Ind. Code § 4-2-6-10.5 prior to the execution of this Agreement.** If Counsel is not familiar with

these ethical requirements, Counsel should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If Counsel or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to Counsel. In addition, Counsel may be subject to penalties under Ind. Code §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

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

C. Counsel affirms that, if it is an entity described in Ind. Code Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

D. As required by Ind. Code § 5-22-3-7:

(1) The Counsel and any principals of the Counsel certify that:

(A) The Counsel, except for de minimis and nonsystematic violations, has not violated the terms of:

- (I) IC § 24-4.7 [Telephone Solicitation Of Consumers];
- (II) IC § 24-5-12 [Telephone Solicitations]; or
- (III) IC § 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

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

(2) The Counsel and any principals of the Counsel certify that an affiliate or principal of the Counsel and any agent acting on behalf of the Counsel or on behalf of an affiliate or principal of the Counsel, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

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

#### **9. Conflict of Interest.**

A. Counsel represents and warrants that, after due and diligent inquiry, it is satisfied that it has no Conflict of Interest (as that term is defined in the Indiana Rules of Professional Conduct) that will preclude it from providing the Legal Services with the understanding that Counsel is now representing the State of Indiana. The Attorney General acknowledges that Counsel represents other Attorneys General Office(s) in the same or similar matters. At this time, Counsel and the Attorney General reasonably believe that counsel will be able to provide competent and diligent representation to each affected client. Despite any potential or actual conflict, the Attorney General consents to the firm's representation of another state or states in the same or similar matters. Counsel and the Attorney General agree that each may modify or withdraw its consent to representation of any or all clients should either party determine that continued representation is not appropriate or might violate applicable rules of professional conduct.

B. Counsel represents and warrants that its performance of the Legal Services will not violate the statutes and regulations relating to the ethical conduct of state employees, including but not limited to Ind. Code § 4-2-6-6 ("Present or former state officers, employees, and special state appointees; compensation resulting from confidential information"), Ind. Code § 4-2-6-9 ("Conflict of economic interest"), or Ind. Code § 4-2-6-10.5 ("Prohibition against financial interest in contract").

C. Notwithstanding Paragraph 9.A., above, the State acknowledges that Counsel currently represents and intends to represent other entities with claims similar to State. At this time, the interests of State and these other entities align. It is possible, however, that conflicts may arise in the future, including:

- (1) Counsel discovers that there is a limited pool of damages or assets from which recovery is reasonably likely, and those damages or assets must be divided among all claimants;
- (2) Defendant(s) offers an aggregate or "lump sum" settlement to all plaintiffs that does not specify the amount each claimants will receive;
- (3) Defendant(s) offers to settle, but only if a certain number, or all, of the claimants accept the proposed settlement; or
- (4) Certain claimants disagree on questions of case management, such as whether to pursue particular legal theories or strategies.

D. The State acknowledges that Counsel may be required by the Rules of Professional Conduct to share material information about State's claims and negotiating positions with Counsel's other clients and, similarly, to share their information with State.

E. If any conflicts, or perceived conflicts, arise throughout the performance of this Agreement, as provided in Paragraphs 9.C or 9.D, above, Counsel shall immediately advise the State of same. Whether the conflict is waivable, remote, or disqualifying shall be at the sole discretion of the Attorney General.

**10. Continuity of Services.** Counsel recognizes that the Legal Services provided under this Agreement are vital to the State and must be continued without interruption and that, upon expiration or termination of this Agreement, a successor, either the State or another Counsel, may continue them. Counsel shall use its best efforts and cooperation to effect an orderly and efficient transition to a successor, and shall be reimbursed for all reasonable transition costs.

**11. Disputes.** Counsel agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Agreement that are not affected by the dispute. Should Counsel fail to continue to perform its responsibilities as regards all non-disputed work, any additional costs incurred by the State or Counsel as a result of such failure shall be borne by Counsel, and Counsel shall make no claim against the State for such costs.

**12. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, Counsel hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Counsel will give written notice to the State within ten (10) days after receiving actual notice that Counsel, or an employee of Counsel in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the Agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in this Agreement is in excess of \$25,000.00, Counsel certifies and agrees that it will provide a drug-free workplace by:

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

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

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

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

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

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

**13. Employment Eligibility Verification.** As required by Ind. Code § 22-5-1.7, Counsel swears or affirms under the penalties of perjury that Counsel does not knowingly employ an unauthorized alien. Counsel further agrees that:

A. Counsel shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in Ind. Code § 22-5-1.7-3. Counsel is not required to participate should the E-Verify program cease to exist. Additionally, Counsel is not required to participate if Counsel is self-employed and does not employ any employees.

B. Counsel shall not knowingly employ or contract with an unauthorized alien. Counsel shall not retain an employee or contract with a person that Counsel subsequently learns is an unauthorized alien.

C. Counsel shall require his/her/its subcontractors, who perform work under this Agreement, to certify to Counsel that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Counsel agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if Counsel fails to cure a breach of this provision no later than thirty (30) days after being notified by the State

**14. Funding Cancellation.** As required by Financial Management Circular 3.3 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**15. Governing Law.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**16. Indemnification.** Counsel agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third-party claims and suits, including court costs, attorney's fees, and other expenses caused by any act or omission of Counsel and/or its subcontractors in the performance of this Agreement. The State shall not provide indemnification to Counsel.

**17. Independent Contractor.** Counsel and the State are acting in their individual capacities and not as employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume any liability for any injury to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees of the other party.

**18. Insurance.** Counsel shall secure and keep in force during the term of this Agreement Lawyers Professional Liability Insurance in such amounts and with such coverage acceptable to the State. Counsel shall be responsible for providing all necessary unemployment and worker's compensation insurance for its employees or partners. Failure to maintain insurance as required in this Agreement may be deemed a material breach of contract entitling the State to immediately terminate this Agreement.

**19. Nondiscrimination.** Pursuant to the Indiana Civil Rights Law, specifically including Ind. Code § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Counsel covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Counsel certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Counsel or any subcontractor.

**20. Notice to Parties.** Whenever any notice, statement or other communication is required under this Agreement, it shall be sent by first class mail or via an established courier/delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Office of the Indiana Attorney General  
Attn: Chief Deputy  
302 W. Washington Street, 5th Floor  
Indianapolis, IN 46204  
Lori.Torres@atg.in.gov



B. Notices to Counsel shall be sent to:

Cooper & Kirk, PLLC  
Attn: David H. Thompson, Managing Partner  
1523 New Hampshire Ave., N.W.  
Washington, D.C. 20036  
dthompson@cooperkirk.com

As required by Ind. Code § 4-13-2-14.8, payments to Counsel shall be made via electronic funds transfer in accordance with instructions filed by Counsel with the Indiana Auditor of State.

**21. Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, Ind. Code § 5-17-5, Ind. Code § 34-54-8, IC §34-13-1 and Ind. Code § 34-52-2-3.

**22. Public Record.** Counsel acknowledges that the State will not treat this Agreement as containing confidential information and will post this Agreement on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Agreement shall not be considered an act of the State.

**23. Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions.

**24. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on Counsel as a result of this Agreement.

**25. Termination.**

A. This Agreement may be terminated, in whole or in part, by the Attorney General whenever, for any reason, the Attorney General determines that such termination is in the State's best interest. Termination of services shall be effected by delivery to Counsel of a Termination Notice at least fifteen (15) business days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. Neither the State nor the Attorney General will be liable for legal services performed after effective date of termination. Counsel may terminate this Agreement as provided by Rule 1.16, Indiana Rules of Professional Conduct.

B. Should the State terminate this Agreement in accordance with Paragraph 25.A, above, or should the term of this Agreement expire without being extended, if the State subsequently obtains any monetary recovery from the Defendant(s), Counsel is entitled to receive a fair and reasonable portion of the recovery, based on its percentage of work in the evaluation of potential claims or negotiation on behalf of the State, in accordance with Paragraph 2, above. In any contract with subsequent counsel, the State will require substitute counsel to share on a pro-rata basis with counsel terminated any attorneys' fees recovered, according to each counsel's reasonable percentage of time and work spent on the matter, or as otherwise agreed to by substitute counsel and terminated counsel. Substitute counsel's obligation to share fees with Counsel will only arise if there is a recovery by settlement or judgment.

**26. Travel.** No reasonable travel expenses will be reimbursed pursuant to this Agreement unless specifically agreed to by the Attorney General in writing and in advance of the travel.

**27. Waiver of Rights.** No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

**Binding Authority; Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that the undersigned is Counsel, or that the undersigned is the properly authorized partner or member of Counsel. Further, to the undersigned's knowledge, neither the undersigned nor any other partner, member, employee, representative, agent or officer of Counsel, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Agreement, Counsel attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.

**Agreement to Use Electronic Signatures**

I agree, and it is my intent, to sign this Agreement by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Agreement to the State of Indiana. I understand that my signing and submitting this Agreement in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Agreement and this affirmation. I understand and agree that by electronically signing and submitting this Agreement in this fashion I am affirming to the truth of the information contained therein. I understand that this Agreement will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: <https://secure.in.gov/apps/idoa/contractsearch/>.

**In Witness Whereof**, the Counsel and the State by their duly authorized representatives have executed this Agreement as of the dates set forth below.

**COOPER & KIRK, PLLC**

DocuSigned By:  
By: **DAVID THOMPSON**  
D0590548E7C64FB...

Title: Managing Partner

Date: 5/11/2022 | 22:37 EDT

**Office of the Indiana Attorney General**

DocuSigned By:  
By: **Lori A Torres-00075**  
FBCE6524D5AB42E...

Title: Chief Deputy Attorney General

Date: 5/17/2022 | 12:14 EDT

Electronically Approved by: Department of Administration  By: _____ (for) Rebecca Holw erda, Commissioner	
Electronically Approved by: State Budget Agency  By: _____ (for) Zachary Q. Jackson, Director	Approved as to Form and Legality: Office of the Attorney General  By: _____ (for) Theodore E. Rokita, Attorney General