

**CONTRACT FOR CRIMINAL DEFENSE SERVICES
ON BEHALF OF INDIGENTS ACCUSED OF
CAPITAL CRIMES**

THIS CONTRACT FOR CRIMINAL DEFENSE SERVICES ON BEHALF OF INDIGENTS ACCUSED OF CAPITAL CRIMES (the “Contract”) is entered into by and between the **LOUISIANA PUBLIC DEFENDER BOARD** (hereinafter sometimes referred to as the “LPDB”), a Louisiana state agency created and established within the Office of Governor, whose address is 500 Laurel Street, Suite 300, Baton Rouge, Louisiana 70801, represented herein by James T. Dixon, Jr., State Public Defender; and the **BATON ROUGE CAPITAL CONFLICT OFFICE, INC.** (hereinafter sometimes referred to as “BRCCO” or “Contractor”), a Louisiana nonprofit corporation, whose address is 525 Florida Street, Suite 310, Baton Rouge, Louisiana 70801, appearing herein through its duly authorized representative, David W. Price, Director.

PREAMBLE

WHEREAS, Article I, Section 13 of the Louisiana Constitution of 1974 mandates the Louisiana Legislature to “provide for a uniform system for securing and compensating qualified counsel for indigents;”

WHEREAS, in an effort to carry out its constitutional mandate, the Louisiana Legislature enacted Act No. 307 of the 2007 Regular Session of the Louisiana Legislature (hereinafter sometimes referred to as the “Louisiana Public Defender Act”), which is codified at La. R.S. 15:141, et seq., and created the LPDB;

WHEREAS, pursuant to La. R.S. 15:146(A)(1), the LPDB is responsible for providing the supervision, administration, and delivery of a statewide public defender system;

WHEREAS, to help the LPDB discharge its responsibility, the Louisiana Legislature, in La. R.S. 147(A), vested the LPDB with “all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana;”

WHEREAS, in accordance with La. R.S. 15:147(C)(1), the LPDB is authorized and desires to enter into contracts with independent public defender organizations qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants; and

WHEREAS, BRCCO is an independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants and, further, desires to provide attorneys who are qualified and certified to provide the services contemplated by this Contract.

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

This Contract supersedes and terminates all prior agreements for attorney services between the parties.

- I. Scope or Work:** BRCCO shall provide legal representation in the form of “criminal defense services at trial” in capital cases where there exists an ethical conflict in the representation of indigents by the 7th Judicial District Public Defender Office and in the 17th Judicial Public Defender Office, the 19th Judicial District Public Defender Office, the 32nd Judicial District Public Defender Office, and in other capital cases in parishes statewide as needed; in cases remanded on appeal for further hearings or retrial statewide; and in cases statewide where appointed counsel has sought consultation services and provision of those services has been approved by the State Public Defender or Capital Case Coordinator and BRCCO. LPDB funds are to be used solely for cases referred to BRCCO by LPDB.

Criminal defense services rendered pursuant to this Contract are to be provided only to indigents who are being prosecuted for a crime, which, if convicted, could result in imposition of the death penalty. Representation is limited to a caseload of 3-5 defendants per attorney with consideration given to complexity (both factual and legal) and geographic constraints. For purposes of this standard, the term *case* means a single charge or set of charges concerning a defendant in one court in one proceeding. An appeal or other action for post judgment review by a higher court is a separate case. The caseload limit may be changed only by agreement by the State Public Defender or Capital Case Coordinator and BRCCO. All attorneys shall meet or exceed the minimal qualifications for capital case representation.

In the event that a capital case is reduced after indictment, the decision of whether the case shall be returned to the District Defender’s office will be made in consultation with the State Public Defender or Capital Case Coordinator, or in accordance with the Rules of Professional Conduct and based on the following non-exclusive criteria: the length of time the attorneys have been representing the defendant prior to the decision to reduce the charge(s); the timing of the prosecution’s decision to reduce the charge(s); the complexity of the case; the number of proceedings; the relationship with the client and the client’s mental health and capabilities.

- A. “Criminal defense service at trial” shall include all reasonable and necessary steps to assure that the accused is represented in a manner that protects the constitutional rights of the accused.
- B. “Criminal defense services at trial” does not include litigation or proceedings arising out of or involving:
 - 1. Post-conviction litigation unless the post-conviction litigation is a substantive aspect of the underlying criminal prosecution; or
 - 2. Litigation or proceedings arising out of or involving tort or worker’s compensation or other civil proceedings outside of the strict confines of the criminal prosecution.

II. Quality of Legal Services: BRCCO shall contract or otherwise deliver the services described in Paragraph I for the defense of the accused persons in capital cases and shall maintain and make available to the LPDB upon request all contracts executed by and between BRCCO and third parties for the delivery of criminal defense services at trial in capital cases, provided the request is made within three years of the termination of this Contract. The goal, objectives and performance indicators, and monitoring plan as provided in Attachment #1 are incorporated by reference as though fully set forth herein.

The legal representation provided under this Contract by BRCCO or its subcontractors shall be of such high quality as will meet all constitutional, statutory, court rule and case law requirements. Each subcontractor’s services shall be rendered pursuant to written agreement with BRCCO consistent with the provisions and requirements of this Contract. BRCCO shall submit to the LPDB the name, qualifications and proof of capital certification for each attorney who is assigned a capital case under this Contract. Except as provided in this Contract, BRCCO agrees to complete all cases received under this Contract, even though the completion of the case may occur beyond the term of this Contract, provided BRCCO is compensated at a rate equivalent to that agreed upon herein.

For attorneys who are designated as provisionally certified for performance reasons and are on BRCCO’s staff, they shall be required to work under the supervision of the Capital Case Coordinator. The Capital Case Coordinator will be responsible for designing and monitoring a performance plan. The purpose of the plan is to improve provisionally certified counsel’s performance. The Capital Case Coordinator will consult the Executive Director in designing the plan and performance metrics. Day to day case supervision shall remain with the Executive Director. However, the Capital Case Coordinator shall review all proposed new case assignments for approval prior to assignment by the Executive Director

Attorney workloads should be monitored and managed so that workloads comply with the caseload standards set forth in the Capital Defense Guidelines. Additionally, monthly

documentation of the entire caseload of every employee and every contractor, whether state or non-state cases, should be maintained in BRCCO's office.

If the BRCCO Board of Directors allows private practice within the BRCCO offices, the BRCCO Board shall calculate the fair market value of the office space so used. Once assessed the fair market value shall be presented to the State Public Defender and Capital Case Coordinator for review, and approval. Attorneys with private practices shall report the number of hours worked on private cases in a written format to be approved by LPDB staff. These reports shall be made on a weekly basis to the Executive Director. These reports will be made available to the State Public Defender and Capital Case Coordinator upon request. The attorneys with private practices shall compensate BRCCO on a monthly basis for the use of the space based on percentage of time spent on private cases. BRCCO support staff is prohibited from working on private practice cases handled within the office. Private cases are defined as those cases not assigned to BRCCO by LPDB.

- III. Monthly Reports:** BRCCO shall provide the LPDB with Capital Case Trial Reports for each indigent defendant represented under this Contract on or before the 5th of each month, the Capital Case Trial Reports completed on forms provided by the LPDB shall be forwarded to the LPDB. The Capital Case Trial reports should reflect the current status for the month of submittal. On or before the 10th of each month BRCCO shall submit to the LPDB a monthly financial report for the second month immediately preceding the report due date. The report shall contain a listing of all expenditures made with funds received under this Contract. The financial reports must include the Profit and Loss Statement (or Income Statement) and the Balance Sheet in a format approved by the State Public Defender or Capital Case Coordinator. Absent extenuating circumstances, failure to submit timely and complete monthly reports may result in delayed monthly payments.
- IV. Timesheets; Caseloads:** All BRCCO personnel (independent contractors and employees) shall keep timesheets, in a format approved by the State Public Defender or Capital Case Coordinator, showing the work activities performed on BRCCO's behalf and the actual amount of time expended on a daily basis. BRCCO shall maintain BRCCO personnel timesheets at BRCCO's office for inspection by the LPDB and/or its staff.

 - A.** Time sheets from FYs 14 and 15 shall be corrected within three months of the execution of this contract, to accurately reflect the number of hours worked by each staff member. Failure to abide by the terms of the contract will result in FIVE THOUSAND DOLLAR AND NO/100 DOLLARS (\$5,000) per month fine or reduction of the contract amount in the amount of FIVE THOUSAND AND NO/DOLLARS (\$5,000) per month.
- V. Duties of BRCCO:** The following conditions shall be met and maintained by BRCCO:

- A.** BRCCO shall provide the services described herein for the defense of indigents accused of capital crimes in Louisiana.
- B.** On or before the effective date of this Contract, BRCCO shall provide to LPDB's Capital Case Coordinator, a Staff Report which shall contain a list of all employees and/or independent contractors who are expected to perform or have performed any services pursuant to this Contract. Staff shall be identified by name, position, annual salary (or, in the case of an independent contractor, the hourly rate), and whether employed full time (i.e., works 40 or more hours per week), part-time (i.e., works less than 40 hours per week) or temporarily. If part-time, the average number of hours worked per week also shall be indicated for each such part-time employee. At any time during the terms of this Contract the employee/independent contractor list changes, the Capital Case Coordinator shall be provided with an updated list.
- C.** BRCCO shall maintain and account for all funds delivered by the LPDB to BRCCO pursuant to this Contract separately from any other revenue in a segregated fund account BRCCO will provide the LPDB with required monthly reports as provided in Paragraph "III" of this Contract.
- D.** BRCCO must provide LPDB with any and all corporate and financial records upon request of the State Public Defender or Capital Case Coordinator.
- E.** BRCCO shall maintain and make available to the LPDB upon request all invoices and payments made and any other record, document or information LPDB may request that might relate to the distribution of LPDB funds, provided the request is made within three years of the termination of this Contract.
- F.** BRCCO shall maintain and make available to the LPDB upon request all contracts executed by and between BRCCO and third parties for the delivery of criminal defense services pursuant to this Contract, provided the request is made within three years of the termination of this Contract.
- G.** BRCCO shall not use any portion of funds received from the LPDB pursuant to this Contract to defray the expenses of counsel presently under contract with the LPDB for the provision of professional services in the defense of indigent clients in a specific case.
- H.** BRCCO shall comply with all federal, state, and local laws, ordinances and regulations, in carrying out the provisions of this Contract, including, without limitation, Louisiana's nonprofit corporation law (La. R.S. 12:201, et seq.);

- I. BRCCO shall not assign any interest in this Contract and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the LPDB.
 - J. BRCCO shall complete a conflicts check of all new clients/cases during intake. Should a conflict be identified, BRCCO shall notify the District Defender and the State Public Defender or Capital Case Coordinator (or their designees) immediately of said conflict. Said notification must occur prior to withdrawing representation.
 - K. BRCCO shall enter the following information into the State Public Defender defenderData system within forty-eight (48) hours of opening or closing a case:
 - 1. The case name;
 - 2. Appropriate identifying information regarding the client; and
 - 3. The status of the case.
 - L. Upon request of the State Public Defender or Capital Case Coordinator, BRCCO will engage the services of a management consultant who will analyze and evaluate BRCCO's management and operating procedures; the management consultant will then make recommendations based on his or her findings to the Director of BRCCO and the State Public Defender or Capital Case Coordinator. The Director of BRCCO and the State Public Defender or Capital Case Coordinator must agree on the selection of the management consultant and the terms and conditions of such engagement. It is agreed that LPDB staff will have unfettered access to the management consultant and can discuss BRCCO matters openly with the management consultant. BRCCO further agrees that LPDB, through its own staff and/or contractors, is authorized to analyze and evaluate BRCCO's management and operating procedures at LPDB's cost.
 - M. Failure of BRCCO to comply with the above mentioned provisions constitutes cause for termination of this Contract as provided for in Paragraph XIX. Termination of this Contract for default under the above-mentioned provisions is effective upon receipt of written notice.
- VI. Mandatory Leadership Training:** Pursuant to the legislative intent behind the Public Defender Act of 2007, including fulfillment of the Louisiana Legislature's mandate under Article I, Section 13 of the Louisiana Constitution to provide "a uniform system for securing and compensating qualified counsel for indigents," the Director (or his or her designee with the prior approval of the State Public Defender or Capital Case Coordinator) agrees to attend the Board-sponsored Leadership Training program offered annually.

VII. Amount of Payment: In consideration of the services described above, the LPDB agrees to pay BRCCO and BRCCO agrees to submit invoices in accordance with the following:

- A.** BRCCO will be paid a total of ONE MILLION, ONE HUNDRED THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,135,000.00). This amount includes both fees for all services and expenses typically considered in calculating overhead. BRCCO will also provide investigative services for both the guilt and penalty phases of trial, but will not be responsible for the costs of extraordinary investigative services such as investigation in other states. The LPDB will be responsible for the costs of extraordinary investigative services such as out of state investigation, subject to pre-approval by the State Public Defender or Capital Case Coordinator. BRCCO is not responsible for expert witness fees and costs for specialized testing. Funding for expert witness fees and specialized testing costs will be paid from other sources in accordance with established law.
- B.** The total of all sums payable under this Contract to BRCCO for criminal defense services at trial shall not exceed of ONE MILLION, ONE HUNDRED THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,135,000.00). Payment will be made monthly for one-twelfth of the contract amount, paid upon presentation to the LPDB from BRCCO an invoice and the required monthly reports pursuant to Paragraph III of this Contract. Monthly payments are contingent on timely submittal of the required monthly reports.
- C.** BRCCO hereby agrees that the responsibility for payment of taxes from the funds received under this Contract shall be BRCCO's obligation and identified under the Federal Taxpayer Identification Number provided by BRCCO.
- D.** BRCCO agrees not to accept payment from any source other than LPDB for the services to be performed under this Contract, including conflict work, without the consent of the State Public Defender or Capital Case Coordinator.

VIII. Term: The terms of this Contract shall commence July 1, 2015, and shall continue in effect until June 30, 2016.

- A.** The effective dates of this Contract may be extended only if an amendment to that effect is duly executed by the parties and approved by the necessary authorities prior to the termination date. Request for extensions may be initiated by either party by the mailing of the request to the party, via Certified Mail, return receipt requested, not less than thirty days before the termination date provided for herein or thirty days before the termination of the first extension of this Contract. This Contract may only be

extended by an executed and approved amendment for not more than two times. If either party informs the other that an extension of this Contract is deemed necessary, an amendment may be prepared by the LPDB and forwarded to the other party for appropriate action by the other party, and said amendment is to be returned to the LPDB with appropriate information and signatures not less than fifteen days prior to termination date. Upon receipt of the amendment it will be forwarded to the necessary authorities for their approval. Notwithstanding the foregoing, in no event shall the total term of this Contract, including extensions hereto, be for a period of more than three years.

- B. The continuation of this Contract is contingent upon the appropriation of funds to fulfill the requirements of this Contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of this Contract, or if such appropriation is reduced by the veto of the governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of this Contract, this Contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated. It is the responsibility of BRCCO to advise the LPDB in advance if contract funds or contract terms may be insufficient to complete contract objectives.
- C. Further, the LPDB, may, at its sole discretion, reduce the total amount of this Contract at any time during the contract term without the concurrence of BRCCO.

IX. Restricted Use of Funds: Contract funds shall be used exclusively by BRCCO for the exclusive use to fund cases as enumerated in paragraph I and for actual administrative costs, including, but not limited to, rent, office supplies, telephone bills, copy costs, banking fees and postage.

X. Record Retention: BRCCO shall keep contemporaneous detailed records to enable LPDB to verify all costs and expenses including the attorney billable time charged in all cases under this Contract. The records shall include supporting documentation necessary to adequately evaluate and substantiate payments made under this Contract. In lieu of submitting the contemporaneous detailed records, BRCCO agrees to retain and make available for inspection and audit at BRCCO's place of business, upon reasonable notice, all books statements, ledgers and other financial records relating to services under this Contract for a period of three years from the date of the payment. On each monthly case trial report submitted by BRCCO to the LPDB, BRCCO shall certify that in accordance with this Contract the case records are contemporaneous, detailed and available for inspection.

- XI. Auditor's Clause:** The Legislative Auditor of the State of Louisiana, the Division of Administration, and LPDB staff and/or agents may audit all records of BRCCO which relate to this Contract. BRCCO shall maintain said records for a period of three years after the date of final payment under this Contract. Under no circumstances, however, is information to be provided to the State of Louisiana that is subject to the work product privilege or the attorney/client privilege that exists between BRCCO and the indigent accused it is representing pursuant to this Contract.
- XII. Segregation of Duties:** BRCCO shall employ proper segregation of duties with regard to the functions of approval, record keeping and custody of assets, including accounting, to minimize the likelihood of undetected errors and irregularities.
- XIII. Budget:** During the term of this Contract, BRCCO shall prepare a comprehensive annual budget in a format approved by the State Public Defender or Capital Case Coordinator presenting a complete financial plan for its upcoming fiscal year. BRCCO shall furnish a copy of its completed budget to the Louisiana Public Defender Board, Attention: Budget Officer, 500 Laurel Street, Suite 300, Baton Rouge, LA 70801, no later than December 31st of the preceding fiscal year.
- XIV. Payroll Registers:** BRCCO shall furnish the Board's Budget Officer and Capital Case Coordinator with copies of its payroll registers twice annually during the Contract. Payroll registers for the 6-month period ending June 30th shall be provided to the Budget Officer no later than July 31st and payroll registers for the 6-month period ending December 31st shall be provided to the Budget Officer no later than January 31st. "Payroll registers," as used herein, means an electronic or hard copy of a record or report that contains and summarizes payroll information (amount of money paid to employees less deductions), including employee's name, regular hours, sick hours, vacation hours, overtime hours, gross pay, withholdings (including federal and state income taxes, social security withheld, and Medicare), other deductions, and net pay.
- XV. Audit:** BRCCO shall be audited annually in accordance with La. R.S. 24:513.
- XVI. Hold Harmless and Indemnify:** BRCCO and its subcontractors shall indemnify and save harmless the LPDB against any and all claims, losses, liabilities, demands, suits, damages, causes of action for damages, and judgments of sums of money to any party accruing against the LPDB growing out of: resulting from, or by reason of any act or omission of BRCCO, its agents, servants, persons or entities with whom it has or may have contracts now or in the future, or employees while engaged in, about, or in connection with the discharge or performance of the terms of this Contract. Such indemnification shall include the LPDB's legal fees and costs of litigation, including, but not limited to, reasonable attorney's fees.

BRCCO shall provide and bear the expense of all insurance related to duties arising under this Contract.

XVII. Notification of Complaint to Office of Disciplinary Counsel: Contractor shall require all attorneys who are employed by, or contract with, Contractor to sign waivers authorizing release and access to their Louisiana State Disciplinary Counsel records. Contractor shall notify the LPDB Capital Case Coordinator, in writing, within 15 days of the date that a file is opened by the Louisiana Office of Disciplinary Counsel that pertains to the Director and/or any Contractor personnel or sub-contractor, and shall immediately forward the report and recommendation of the hearing officer. Contractor further agrees to comply with the complaint policy promulgated by the LPDB.

XVIII. Independent Contractor: BRCCO and the LPDB expressly agree that no person employed by or contracted by BRCCO shall be considered to be an employee or agent of the LPDB for any purpose, including, specifically, for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana or unemployment compensation coverage, as such term is defined in La. R.S. 23:1021(7). Furthermore, it is expressly agreed that no person employed by or contracted by BRCCO shall be entitled to receive any benefits customarily provided to employees of the LPDB, including, but not limited to, sick or annual leave or retirement benefits, from the LPDB. BRCCO and any persons or entities with whom BRCCO may contract shall be deemed employees or independent contractors of BRCCO, as the case may be, and shall not be deemed to have any relationship whatsoever to the LPDB.

XIX. Default Termination: The LPDB may terminate this Contract for cause based upon the failure of BRCCO to comply with the terms and/or conditions of the Contract; provided that the LPDB shall give BRCCO written notice specifying BRCCO's failure. If within thirty (30) days after receipt of such notice, BRCCO shall not have either corrected such failure or, in the case which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the LPDB may, at its option, place BRCCO in default and the Contract shall terminate on the date specified in such notice. BRCCO may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the LPDB to comply with the terms and conditions of this Contract; provided that BRCCO shall give the LPDB written notice specifying the LPDB's failure and a reasonable opportunity for the LPDB to cure the defect. However, the parties specifically agree that upon delivery of the funds specified above, the LPDB shall have no further duty or obligation whatsoever to BRCCO under this Contract. Any claims or controversies arising out of this Contract shall be resolved by the provisions of La. R.S. 39:1524-1526.

XX. Cancellation: Either party shall have the right to cancel this Contract, with or without cause, by giving the other party thirty days written notice forwarded to their respective address by

certified mail with return receipt requested. The LPDB has the right to cancel this Contract upon less than thirty days due to budgetary reductions and changes in funding priorities by the LPDB. Notice shall be sent certified mail, return receipt requested, to the addresses provided above.

XXI. Insurance: Without limiting BRCCO's indemnification, it is agreed that BRCCO, at its expense, shall maintain in force at all times during the performance of this Contract a policy or policies of insurance covering its operation as described below.

- A. **General Liability Insurance.** BRCCO shall maintain continuously public liability insurance with limits of liability not less than: \$250,000 for each person, personal injury; \$500,000 for each occurrence, property damage, liability, or a combined single limit of \$500,000 for each occurrence, personal injury and/or property damage liability. Such insurance shall include the LPDB as an additional insured and shall not be reduced or canceled without 30 days prior written notice to the LPDB. BRCCO shall provide a certificate of insurance or, upon written request of the LPDB, a duplicate of the policy as evidence of insurance protection.
- B. **Professional Liability Insurance.** BRCCO shall maintain or ensure that its professional employees maintain professional liability insurance for any and all acts which occur during the course of their employment or contracted services with the LPDB which constitute professional services in the performance of this Contract. For purposes of this Contract, professional services shall mean any services provided by a licensed professional. It will be the professional employee's (Counsel) responsibility to maintain professional liability, ERRORS AND OMISSIONS or malpractice coverage with limits of \$1,000,000.00 combined single limit per claim/aggregate. This coverage must be maintained throughout the period of this Contract. BRCCO will provide coverage sheet confirming current coverage if one is not currently on file to the LPDB. BRCCO will also provide copies of all renewals which occur within the contract period to the LPDB. BRCCO shall provide all malpractice insurance related to its duties arising under this Contract.
- C. **Employee Dishonesty Insurance.** BRCCO shall obtain and keep in effect during the term of the Contract, insurance necessary to ensure Contractor's continued existence in the event of criminal acts by its officers and/or employees in an amount not less than \$500,000.00.

XXII. Discrimination Clause: BRCCO agrees as follows:

- A. To abide by the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964, and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968, as amended, and BRCCO agrees to abide by the requirements of the Americans with Disabilities Act of 1990; and
- B. To render services under this Contract without regard to race, color, religion, gender, sexual orientation, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by BRCCO, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of this Contract.

XXIII. Acts of God, etc.: In the event that the LPDB or BRCCO shall be delayed, hindered in, or prevented from the performance of any act required hereunder by reason of acts of God or nature, or any other reason beyond their control, including governmental action, then performance of such act shall be excused for the period of the delay, and the term of this Contract and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

XXIV. Entire Contract: This writing contains the entire agreement between the parties. No representations were made or relied upon by either party, other than those that are expressly set forth. This Contract may be modified or amended at any time by mutual consent of the parties, provided, that before any modification or amendment shall be operative and valid, it shall be reduced to writing and signed by both parties. Notwithstanding the foregoing, in no event, shall this Contract be valid until it has been approved in writing by the Director of the Office of State Procurement, Professional Contracts. The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party.

XXV. Louisiana Law Applies: The validity, interpretation, and performance of this Contract shall be governed, interpreted, controlled, construed, and regulated in accordance with the laws of the State of Louisiana.

[Signatures on Following Page]

ATTACHMENT #1

LOUISIANA PUBLIC DEFENDER BOARD

**CONTRACT FOR CRIMINAL DEFENSE SERVICES
ON BEHALF OF INDIGENTS ACCUSED OF
CAPITAL CRIMES**

Purposes and Performance Indicators

GOALS AND PURPOSES:

To provide professional legal representation of an indigent in the form of criminal defense services at trial by counsel certified in accordance with Louisiana Supreme Court Rule XXXI relative to the criminal matter specified in the attached Contract. The provision of legal representation is in performance of the duly authorized programs of the Louisiana Public Defender Board. The length of such legal representation will be determined on the individual facts and circumstances of each case which is the subject of the attached Contract.

OBJECTIVE ONE:

BRCCO is to provide indigent defendants with high quality capital defense services at trial in a professional and ethical manner.

PERFORMANCE INDICATORS:

The professional aspect of criminal defense work can be quantified by the preparation of and timely filing of appropriate motions, briefs and other pleadings; development of defense strategy; hiring expert witnesses; and preparation for jury voir dire and trial.

The ethical guidelines used to indicate proper performance are all applicable rules that have been promulgated by LPDB and are in effect at the time of the Contract and the *Rules of Professional Conduct* of the Louisiana State Bar Association.

MONITORING PLAN:

BRCCO is to provide monthly reports concerning the status of each case in which it provides criminal defense services to indigents. From these reports the Louisiana Public Defender Board can monitor the timeliness and adequacy of the defense services provided by BRCCO and the orderly process of the case through the system.

From the reports, it may also be determined whether BRCCO is fulfilling ethical obligations in vigorously representing clients by timely raising issues sufficiently indicated from the complexity of the case and adequately preparing for disposition of the case.

OBJECTIVE TWO:

BRCCO shall not exceed the contract maximum in billing, or provide services outside the term of the Contract without prior notification and approval by LPDB.

PERFORMANCE INDICATORS:

Submission of invoices within the time and manner prescribed in the Contract in accord with the maximum amount of Contract.

MONITORING PLAN:

LPDB will review all billings submitted by BRCCO for compliance with the contract maximum and contract term.

OBJECTIVE THREE:

To improve, overall, the quality of representation on behalf of indigent clients.

PERFORMANCE INDICATORS:

The quality of the pre-trial and trial preparation is a direct indicator of the work being performed on behalf of the indigent clients.

MONITORING PLAN:

Periodic sampling of the pleadings filed on behalf of the indigent client is reviewed by the LPDB for form, procedural correctness, legal analysis, and substance.