

**CONTRACT FOR CRIMINAL DEFENSE SERVICES
ON BEHALF OF INDIGENTS ACCUSED OF
CAPITAL CRIMES IN THE STATE OF LOUISIANA**

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 **LOUISIANA CRISIS ASSISTANCE CENTER d/b/a LOUISIANA CAPITAL ASSISTANCE CENTER**, a Louisiana non-profit corporation (hereinafter sometimes referred to as the "LCAC" or "Contractor"), whose business address is 636 Baronne Street, New Orleans, Louisiana 70113, appearing herein through its duly authorized representative, Richard Bourke, 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. 15:147(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, LCAC 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 of Work: LCAC shall provide legal representation, in the form of “criminal defense services at trial,” in capital cases, statewide, as assigned by the State Public Defender or Capital Case Coordinator with the agreement of the Director of LCAC, as follows: where a capital case is remanded on appeal for further hearings or retrial; where assigned counsel in a capital case has sought consultation services; where a death verdict has been returned at the motion for new trial and uniform capital sentencing report stages of post-verdict capital proceedings statewide; in a small number of non-capital cases in order to provide an opportunity for staff providing services under this contract to receive or maintain appropriate casework experience and to achieve certification requirements.

LCAC also agrees to provide services as assigned by the State Public Defender or Capital Case Coordinator with the agreement of the Director of the LCAC under the Louisiana Public Defender Board Capital Guidelines and Performance Standards, including as Case Supervisor, as Resource Counsel, as Trainer and by providing technical support in the implementation of the Guidelines and Performance Standards.

LCAC also agrees to provide appropriate professional supervision and development of all staff employed by the LCAC to provide services under this Contract.

LCAC also agrees to maintain the resources, management and administrative support for its practice necessary to allow staff to provide services in compliance with this Contract.

In the event that a capital case is reduced after indictment, the decision of whether the case shall be returned to the district defender office will be made in consultation with the State Public Defender or Capital Case Coordinator 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.

"Criminal defense service at trial" shall include all reasonable and necessary steps to assure that the accused receives high quality representation in a manner that protects the constitutional rights of the accused and is consistent with the Capital Guidelines and Performance Standards; however, "criminal defense services at trial" does not include litigation or proceedings arising out of or involving 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.

Except as provided in this Contract, LCAC agrees to complete all cases received under this contract, even though completion of the case may occur beyond the term or quantum of work provided in this Contract, provided LCAC is compensated at a rate equivalent to that agreed upon herein.

II. Quantum of Work: Prior to the commencement of this Contract, LCAC will furnish an annual budget and staffing plan outlining the proposed expenditure of contract funds in delivering the services described in Paragraph I and the staff or contract positions that will be used to provide those services. The staffing plan will include a description of the nature of each position, the relevant experience level of each position and percentage of a full time work year that the position holder will dedicate to the provision of services under the Contract.

Remuneration of staff for services performed under this Contract shall be consistent with the wage schedule provided in Attachment 2 unless agreed to by the State Public Defender or Capital Case Coordinator upon a showing of good cause.

Compensation levels set forth in this Contract are based on full-time staff positions. The work year is comprised of 2,080 hours, with 1,700 hours of these considered billable hours. The levels of compensation herein do not include customary fringe benefits, reasonable overhead and necessary out-of-pocket expenses. Where the provision of services under this Contract forms less than a full-time role for a staff position, compensation levels should be pro-rated to the percentage of a full-time position the staff member applies to providing services under the Contract.

The State Public Defender or Capital Case Coordinator shall approve any budget and staffing plan submitted that provides for an appropriate level of staffing and an appropriate expenditure of funds to meet the goals of the Contract and the obligations of the LCAC under the Contract. The State Public Defender or Capital Case Coordinator

may from time to time approve any variance in the proposed budget and staffing plan submitted by the LCAC.

Where the quantum of work provided under this Contract in any quarter falls below the approved budget and staffing plan by greater than 5%, the State Public Defender or Capital Case Coordinator may: require LCAC to provide an explanation for the shortfall and submit a remedial budget and staffing plan that will bring overall service provision under the Contract into compliance with the previously approved budget and staffing plan; reduce the amount of payment due under the Contract to fairly reflect the quantum of work actually being provided; or, take such other action as is agreed between LCAC and the State Public Defender or Capital Case Coordinator that will ensure the goals of the Contract and the obligations of the LCAC are met.

Where the quantum of work provided under this Contract in any quarter rises above the approved budget and staffing plan by greater than 5%, LCAC shall notify the State Public Defender or Capital Case Coordinator who shall make necessary enquiries and determine whether the work provided in excess of the approved budget and staffing plan was reasonable and appropriate for LCAC to meet its obligations under this Contract. Where additional work was not reasonable and appropriate, the State Public Defender or Capital Case Coordinator shall provide written notice to LCAC and LCAC may seek review of this determination before the LPDB. Where the additional work is reasonable and appropriate, the State Public Defender or Capital Case Coordinator shall, having regard to the need to ensure high quality representation in capital cases; take steps to reduce the workload of the LCAC for the remainder of the Contract term to bring the total quantum of work into compliance with the approved budget and staffing plan; approve compensation for the additional work at a rate equivalent to that agreed in this Contract; or advise the LCAC in writing that no additional compensation is available for the additional work.

Where LCAC anticipates that the quantum of work necessary to meet the LCAC's obligations under this Contract will rise above the approved budget and staffing plan by greater than 5% in the coming quarter, LCAC shall notify the State Public Defender or Capital Case Coordinator who shall make the enquiries and take the steps described above to make provision in advance for the additional work.

- III. Quality of Legal Services:** LCAC 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 LPDB upon request all contracts executed by and between LCAC and third parties for the delivery of services under this Contract, 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 LCAC or its subcontractors shall be high quality representation delivered in compliance with the Capital Guidelines and Performance Standards and will meet all constitutional, statutory, court rule and case law requirements. Each sub-contractor's services shall be rendered pursuant to written agreement with LCAC consistent with the provisions and requirements of this Contract. All attorneys assigned to perform services under this Contract shall be certified under the Capital Guidelines at the level appropriate to the role assigned. LCAC shall submit to the LPDB the name, qualifications and capital certification status for each attorney who is assigned a capital case under this Contract.

Representation by LCAC is limited to a maximum annual caseload of 3-5 capital cases per attorney or its equivalent, having regard to the case load standards established in Chapter 12, Louisiana Standards on Indigent Defense and any additional workload held by each attorney. In assessing each attorney's workload, consideration shall be taken of all of the following: the complexity (both factual and legal) of each case; the procedural posture of each case; the geographic considerations relevant to each case; variations in public defense practices and procedures; prosecutorial and judicial processing practices, trial rates, sentencing practices, attorney experience, extent and quality of supervision, and availability of investigative, mitigation, and support staff; client enhancers specific to each client such as the presence of mental illness; and any additional professional responsibilities held by each attorney.

For purposes of this Contract, 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. At the discretion of the State Public Defender or Capital Case Coordinator and the Director of LCAC, the caseload limit may be changed.

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 LCAC's office.

- IV. Monthly Reports:** LCAC shall provide the LPDB with Capital Case Trial Reports for each indigent capital 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 LCAC 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 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 as they relate to the funds received under this Contract 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.

- V. **Timesheets:** Require all LCAC personnel (independent contractors and employees) to keep timesheets, in a format approved by the State Public Defender or Capital Case Coordinator, showing the work activities performed on LCAC's behalf and the actual amount of time expended on a daily basis for all work performed under this Contract. LCAC shall maintain LCAC personnel timesheets at LCAC's office for inspection by the LPDB and/or its staff.
- VI. **Duties of LCAC:** The following conditions shall be met and maintained by LCAC:
- A. LCAC shall provide the services described herein.
 - B. On or before the effective date of this Contract, LCAC 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 anytime during the terms of this Contract the employee/independent contractor list changes, the Capital Case Coordinator shall be provided with an updated list.
 - C. LCAC shall maintain and account for all funds delivered by the LPDB to LCAC pursuant to this Contract separately from any other revenue in a segregated fund account. LCAC will provide the LPDB with required monthly reports as provided in Paragraph III of this Contract.
 - D. LCAC must provide LPDB with any and all corporate and financial records upon request of the State Public Defender or Capital Case Coordinator. "Corporate" records means those records that a corporation (i.e., LCAC) needs to keep in order

to show that it is functioning in the manner required by the Internal Revenue Service and the Louisiana Nonprofit Corporation law (La. R.S. 12:201, et seq.). LCAC may fulfill the requirements of this provision by furnishing redacted minutes of meetings to the LPDB, provided such redactions are limited to matters that are not necessary to show compliance with IRS regulations and the Louisiana Nonprofit Corporation law.

- E.** LCAC 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.** LCAC shall maintain and make available to the LPDB upon request all contracts executed by and between LCAC 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.** LCAC 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.
- H.** LCAC 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.
- I.** Failure of LCAC to comply with the above mentioned provisions constitutes cause for termination of this Contract as provided for in Paragraph XX. Termination of this Contract for default under the above-mentioned provisions is effective upon receipt of written notice.
- J.** LCAC 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.
- K.** LCAC agrees to complete thorough and accurate conflicts checking of clients/cases during intake of all cases and, if a conflict is identified, further agrees to 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.

- L. LCAC agrees to enter the following information into the State Public Defender system, defenderData, 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.

- M. Upon request of the State Public Defender or Capital Case Coordinator, LCAC will engage the services of a management consultant to analyze and evaluate LCAC's management and operating procedures; the management consultant will then make recommendations based on his or her findings to the Director of LCAC and the State Public Defender or Capital Case Coordinator. The Director of LCAC 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 Director of LCAC matters openly with the management consultant. Director of LCAC further agrees that LPDB, through its own staff and/or contractors, is authorized to analyze and evaluate Director of LCAC's management and operating procedures at LPDB's cost.

VII. 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.

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

- A. LCAC will be paid a total of ONE MILLION, TWO HUNDRED NINETY-EIGHT THOUSAND, THREE HUNDRED FIVE AND NO/100 (\$1,298,305.00). This amount includes both fees for all services and expenses typically considered in calculating overhead. LCAC 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. LCAC 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 LCAC for criminal defense services at trial shall not exceed ONE MILLION, TWO HUNDRED NINETY-EIGHT THOUSAND, THREE HUNDRED FIVE AND NO/100 (\$1,298,305.00). Payment will be made monthly for one-twelfth of the contract amount, paid upon presentation to the LPDB from LCAC 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.** LCAC hereby agrees that the responsibility for payment of taxes from the funds received under this Contract shall be LCAC's obligation and identified under the Federal Taxpayer Identification Number provided by LCAC.
- D.** LCAC 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.

IX. 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 (30) days before the termination date provided for herein or thirty (30) 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 than 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 (15) 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 LCAC 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 LCAC.

X. Restricted Use of Funds: Contract funds shall be used exclusively by LCAC for the exclusive use to fund cases as enumerated in paragraph I and for actual administrative costs, including, but not limited to banking fees and postage.

Where the LCAC has a surplus of unexpected contract funds in excess of the amount of three monthly payments under this Contract, the State Public Defender or Capital Case Coordinator may direct the LCAC in writing to apply those surplus funds: in lieu of part or whole of the payment due to the LCAC under this Contract in a particular month or months; or in lieu of compensation for additional work approved under Paragraph II of this Contract.

XI. Record Retention: LCAC shall keep contemporaneous detailed records to enable LPDB to verify all costs and expenses associated with professional services, including mitigation specialist, investigator, attorney, paralegal and legal assistant's 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, LCAC agrees to retain and make available for inspection and audit at LCAC'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 LCAC to the LPDB, LCAC shall certify that in accordance with this Contract the case records are contemporaneous, detailed and available for inspection.

- XII. 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 LCAC which relate to this Contract. LCAC 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 LCAC and the indigent accused it is representing pursuant to this Contract.
- XIII. Segregation of Duties:** LCAC 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.
- XIV. Budget:** During the term of this Contract, LCAC shall prepare a comprehensive annual budget presenting a complete financial plan for its upcoming fiscal year. Such budget shall be in a format approved by the State Public Defender or Capital Case Coordinator and provide detailed information for all funds and expenditures which relate to this Contract and summary information for funds and expenditures which relate to funding sources other than the LPDB. LCAC shall furnish a copy of its completed budget to the Louisiana Public Defender Board, Attention: Capital Case Coordinator and Budget Officer, 500 Laurel Street, Suite 300, Baton Rouge, LA 70801, no later than December 31st of the preceding fiscal year.
- XV. Payroll Registers:** LCAC shall furnish the Board's Capital Case Coordinator and Budget Officer with copies of its payroll registers pertaining to this Contract twice annually during the Contract. Payroll registers for the 6-month period ending June 30th shall be provided to the Capital Case Coordinator and Budget Officer no later than July 31st and payroll registers for the 6-month period ending December 31st shall be provided to the Capital Case Coordinator and Budget Officer no later than January 31st.
- XVI. Audit:** LCAC shall be audited annually by a licensed certified public accountant approved by the Legislative Auditor of the State of Louisiana to perform such audit in accordance with generally accepted governmental auditing standards and the Louisiana Governmental Audit Guide. Such audits shall be completed within six months of the close of LCAC's fiscal year.
- 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, in writing, the LPDB Capital Case Coordinator within fifteen (15) days of filing of a complaint that has been lodged with the Louisiana Office of

Disciplinary Counsel against 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. Hold Harmless and Indemnify: LCAC 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 LCAC, 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. LCAC shall provide and bear the expense of all insurance related to duties arising under this Contract.

XIX. Independent Contractor: LCAC and the LPDB expressly agree that no person employed by or contracted by LCAC 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 LCAC 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. LCAC and any persons or entities with whom LCAC may contract shall be deemed employees or independent contractors of LCAC, as the case may be, and shall not be deemed to have any relationship whatsoever to the LPDB.

XX. Default Termination: The LPDB may terminate this Contract for cause based upon the failure of LCAC to comply with the terms and/or conditions of the Contract; provided that the LPDB shall give LCAC written notice specifying LCAC's failure. If within thirty (30) days after receipt of such notice, LCAC 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 LCAC in default and the Contract shall terminate on the date specified in such notice. LCAC 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 LCAC 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 LCAC 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.

XXI. Cancellation: Either party shall have the right to cancel this Contract, with or without cause, by giving the other party thirty (30) 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 (30) 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.

XXII. Insurance: Without limiting LCAC's indemnification, it is agreed that LCAC, 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.** LCAC 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 thirty (30) days prior written notice to the LPDB. LCAC 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.** LCAC 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 combined single limit per claim/aggregate. This coverage must be maintained throughout the period of this Contract. LCAC will provide a coverage sheet confirming current coverage if one is not currently on file to the LPDB. LCAC will also provide copies of all renewals which occur within the contract period to the LPDB. LCAC shall provide all malpractice insurance related to its duties arising under this Contract.

- C. Employee Dishonesty Insurance. LCAC shall obtain and keep in effect during the term of the Contract, insurance necessary to ensure LCAC's continued existence in the event of criminal acts by its officers and/or employees in an amount not less than \$500,000.

XXIII. Discrimination Clause: LCAC 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 LCAC 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 LCAC, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of this Contract.

XXIV. Acts of God, etc.: In the event that the LPDB or LCAC 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.

XXV. 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.

ATTACHMENT #1

**LOUISIANA PUBLIC DEFENDER BOARD
CONTRACT FOR CRIMINAL DEFENSE SERVICES
ON BEHALF OF INDIGENTS ACCUSED OF
CAPITAL CRIMES IN THE STATE OF LOUISIANA**

Purposes and Performance Indicators

GOALS AND PURPOSES:

To provide professional, high quality 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 and the Louisiana Capital Defense Guidelines, relative to the criminal matter specified in the attached Contract. The provision of high quality 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:

LCAC is to provide indigent defendants with high quality criminal 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 pre-trial motions, development of defense strategy, hiring and oversight of investigators and expert witnesses, and preparation for and presentation of oral argument, 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:

LCAC 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 LCAC and the orderly process of the case through the system.

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

OBJECTIVE TWO:

LCAC 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 LCAC 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.

ATTACHMENT #2

LOUISIANA PUBLIC DEFENDER BOARD

**CONTRACT FOR CRIMINAL DEFENSE SERVICES
ON BEHALF OF INDIGENTS ACCUSED OF
CAPITAL CRIMES IN THE STATE OF LOUISIANA**

Wage Schedule

Annual wages for a full-time staff member for services performed under this contract shall be consistent with the following schedule unless agreed to by the State Public Defender on a showing of good cause.

Director	\$115,747.00
Senior Attorney (First Chair)	\$86,810.00-104,172.00
Associate Attorney (Second Chair)	\$63,661.00-75,235.00
Junior Attorney	\$43,984.00-52,086.00
Mitigation Worker	\$46,299.00-75,235.00
Fact Investigator	\$40,511.00-57,873.00
Paralegal	\$34,724.00-46,299.00

The wage schedule assumes a full employer contribution to health, dental and disability insurance and where this is not provided the schedule should be modified accordingly. The wage schedule makes no provision for and is independent of any reasonable retirement benefits such as 401(k) or IRA contributions.