

Attorney Retainer Agreement—Court Martial—Trial Level

PERSONAL AND CONFIDENTIAL PROTECTED UNDER ATTORNEY-CLIENT PRIVILEGE

The purpose of this Attorney Retainer Agreement (“Agreement”) is to set forth our understanding and agreement, pursuant to which our organization, THE INNOCENT WARRIOR PROJECT (“IWP”), has agreed to pay some or all of the legal expenses to <<YOUR FIRM HERE>> (“Firm”), in consideration for Firm’s agreement to represent <<ACCUSED>>, (“Client”) in the following referenced matter(s): <<ALLEGATION>> (“Matter”).

IWP, Firm, and Client have, of course, discussed this Matter, but it is prudent that our understandings be documented to prevent any confusion or misunderstanding in the future. Firm agrees to go over this entire agreement, verbatim, with Client to ensure all parties understand their rights and obligations. **Client has been informed by Firm that <<he>><<she>> should consult separate counsel¹ to advise Client concerning the terms of this Attorney Retainer engagement, and especially the provisions concerning IWP’s payment to Firm for its representation of Client. Consultation is important because all parties must**

- understand each party’s roles and responsibilities concerning this representation,
- understand that Firm and Client explicitly waive any claim against IWP for any reason whatsoever,
- consent to be contacted by IWP throughout the representation and thereafter,
- consent to publication of information about the case in IWP’s sole discretion in order to assist IWP in publicizing its mission and successes,
- agree to facilitate 360° feedback to IWP concerning Firm performance, including input from Client, opposing counsel, panel members, military judges, and parallel counsel, as requested and using instruments as provided by IWP, and
- initial at every point in this document there is a “____ (Client initials)” block, in order to indicate particularly careful review of that important paragraph.

¹ For example, a Legal Assistance Attorney who is available to represent Client at no cost to <<him>><<her>>; or, if Client’s Military Service does not provide adequate Legal Assistance Services, then Client’s Detailed Military Defense Counsel.

THE INNOCENT WARRIOR PROJECT
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I. EMPLOYMENT OF ATTORNEY AND SCOPE OF REPRESENTATION

Client is in need of legal advice and counsel and hereby employs Firm under the following conditions:

- A. The normal scope of representation in military justice matters includes the following relationship between Firm and Client:
- (1) ____ (Client initials) “I am an attorney, and you may elect to hire me to represent you. I am qualified and certified to represent Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen at every level of military legal proceedings.”
 - (2) ____ (Client initials) “If you hire me for a military justice action, I will zealously represent you during all phases of the court-martial process, including pre-trial proceedings, trial, and post-trial processing, to the extent agreed upon in this agreement.”
 - (3) ____ (Client initials) “If you are completely acquitted of all charges and specifications, our attorney-client relationship will end when you receive your copy of the record of trial.”
 - (4) ____ (Client initials) “Otherwise, our attorney-client relationship will terminate when the convening authority takes initial action in your case (if your case will not be reviewed by our appellate courts), or when you are assigned appellate defense counsel (if your case will be reviewed by our appellate courts), subject to my further representation of you in appellant matters if we both agree via separate agreement.”
 - (5) ____ (Client initials) “Additionally, certain things could happen at any time that can terminate our attorney-client relationship. Some of them are:
 - a. the case could go away—meaning charges could be disposed of before initial action via some alternate disposition (Discharge in lieu of Trial by Court-Martial, a declination of prosecution, *etc.*);
 - b. you release me from representing you, either because you have lost faith in me or you want to go with another lawyer, civilian or military; or
 - c. a conflict of interest develops or other problem occurs that affects my ability to represent you under my Rules of Professional Conduct.”
 - (6) ____ (Client initials) “After our attorney-client relationship is terminated, I will continue to have a duty to keep confidential the information I have

learned during my representation of you, unless I am compelled to release some information, in which I will only release to the minimum extent necessary and never to hurt you.”

(7) ____ (Client initials) “IWP has no power over you as a client or me as an attorney. At no time and under no circumstances is IWP responsible for my representation of you, since IWP has no control over the exercise of my professional discretion or your right to terminate my services if you lose confidence in me. We are a team and you are the boss. You are responsible for your own case, and you must take care to guide me in your best interests, subject to my advice to you. You may fire me at any time and for any reason, subject – under some circumstances – to the permission of the Court.”

(8) ____ (Client initials) “IWP is a charity; and it is focused on helping Service Members. IWP helps those that help themselves; therefore, IWP expects both of us to behave ourselves professionally and in accordance with the importance of this matter and the dignity of our military service. IWP may, at any time and in the sole discretion of IWP, break contact, cease paying any further money, and/or seek to recoup any previously paid monies to me if either of us deviates from this Agreement in a material way. By accepting IWP’s help, both of us agree to abide by the judgment and findings of Executives if there is an issue, solely subject to appeal to IWP’s Board if we don’t agree with the Executives’ decision.”

B. ____ (Client initials) Firm will represent Client in the above-referenced Matter by advising and counseling, by investigating the law and facts, by preparing for any hearing or trial, by negotiating with the opposing attorneys, and by representing Client at the trial if a trial becomes necessary or by negotiating a settlement if so directed by Client.

C. ____ (Client initials) Client hereby authorizes Firm to act as its agent in all matters affecting the above Matter, including but not limited to the following:

- (1) To appear before any court or administrative hearing on Client’s behalf;
- (2) To negotiate a proper disposition of the above Matter;
- (3) To waive Client’s appearance at any proceedings in reference to this Matter;
- (4) To request that the hearing or setting of the Matter be postponed and reset with Client’s approval;
- (5) To appear in any hearing or trial that may be requested; and

- (6) To further the interest of Client to attempt to reach a successful resolution of this Matter.

- D. ___ (Client initials) Client has not employed Firm to handle the appeal of this Matter or any other matter. Ordinarily, it is better to have a separate lawyer conduct appellant matters, as different lawyers specialize in different levels of military justice and it is often a good idea to have a fresh set of eyes consider an appeal. If an appeal is necessary and both Client and Firm wish to continue their relationship, a separate agreement will be made.
- E. In ordinary military justice representation, there are five decisions which are Client's, and Client's alone:
- (1) ___ (Client initials) Who represents Client.²
 - (2) ___ (Client initials) What Client's plea will be.³
 - (3) ___ (Client initials) Whether Client enters into a Pre-Trial Agreement.
 - (4) ___ (Client initials) If Client pleads Not Guilty to one or more charged offenses, whether Client elects to testify in the Findings Phase of the trial.

² Under military law, you are entitled to (1) represent yourself, (2) be represented by a civilian defense counsel at no expense to the Government, and either (3a) be represented by a detailed military defense counsel or (3b) be represented by another military lawyer (an Individual Military Counsel, or IMC), regardless of service.

You have the right to be represented by a detailed military defense counsel. He or she is a lawyer, certified by The Judge Advocate General as qualified to act as your defense counsel and he or she is a member of the Army's Trial Defense Service. His or her services are provided at no expense to you.

You also have the right to be represented by a military counsel of your own selection, regardless of military service, provided that the counsel you request is reasonably available. If you were represented by military counsel of your own selection, then your detailed defense counsel would normally be excused. However, you could request that your detailed counsel continue to represent you, but your request would not have to be granted.

In addition to your military defense counsel, you have the right to be represented by a civilian counsel at no expense to the government. Civilian counsel may represent you along with your military defense counsel or you could excuse your military counsel and be represented only by your civilian counsel.

Lastly, as indicated above, you always have the right to represent yourself.

³ You may **always** plead Not Guilty to any offense(s) with which you are charged and place the very heavy burden of proving each and every element of each and every offense on the Government. The burden of proving those elements *never* shifts to the Defense. On the other hand, under military law, you may not plead guilty to any offense(s) with which you have been charged unless you (1) are actually guilty of the offense(s) to which you are attempting to plead guilty, (2) are willing to admit that you are actually guilty the offense(s) to which you are attempting to plead, (3) believe it is in your best interests to do so, and (4) are capable of convincing a military judge that you are actually guilty of the offense(s) to which you are attempting to plead guilty. Your defense counsel is, obviously, intimately involved in assisting you to work through your plea decision(s), but it is important to note that the final decision is yours and yours alone.

- (5) ___ (Client initials) Whether Client elects to be tried before a Military Judge Alone, an Officer Panel, or an Enlisted Panel (if Client is enlisted).⁴

II. FEES

- A. ___ (Client initials) In consideration for the services already rendered and to be rendered on Client's behalf by Firm, Client hereby agrees to pay a reasonable fee. Although IWP endeavors to help defer the costs of this very costly service, Client is solely and ultimately responsible for the fee owed. The factors to be considered as guides in determining the reasonableness of a fee and agreed upon and understood by Client are set out in the Rules of Professional Conduct governing Firm, as approved by the Supreme Court of the State which governs Firm's conduct. Those factors include the following:
- (1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service promptly.
 - (2) The likelihood that the acceptance of the particular employment will preclude other employment by Firm.
 - (3) The fee customarily charged in the locality⁵ for similar legal services.
 - (4) The amount involved and the results obtained.
 - (5) The time limitations imposed by Client or by the circumstances.
 - (6) The nature and length of the professional relationship with Client.
 - (7) The experience, reputation and ability of Firm in rendering services in disciplinary litigation and related matters.

⁴ You have a right to be tried by a court consisting of at least three (if a Special Court-Martial) or five (if a General Court-Martial) officer members, that is, a court composed of commissioned and/or warrant officers.

If you are Enlisted and request it, you can elect to be tried by a court consisting of at least one-third enlisted members, but none of those enlisted members could come from your unit and no member of the court would be junior in rank to you.

If you are tried by court members, the members will vote by secret, written ballot and two-thirds of the members must agree before you could be found guilty of any offense. If you were found guilty, then two-thirds must also agree in voting on a sentence and if that sentence included confinement for more than 10 years, then three-fourths would have to agree.

You also may request to be tried by military judge alone. If your request is approved there will be no court members and the military judge alone will decide whether you are guilty, and if found guilty, the military judge alone will determine your sentence.

⁵ In this Matter, "locality" means "in military proceedings," since UCMJ cases occur worldwide.

(8) The difficulty presented by the case due to civil, criminal, and professional exposure of the allegations.

B. _____ (Client initials) IWP and Firm presently use the following flat fee schedule in the event representation in one of the follow *fora* is required:⁶

Capital Case	\$100,000 flat fee
General Courts-Martial, Maximum Sentence:	
-- Life without Parole (LWOP)	\$50,000 flat fee
-- Less than LWOP	\$25,000 flat fee
Other Courts-Martial	\$15,000 flat fee
Administrative Action	\$5,000 flat fee

_____ (Client initials) If the matter is resolved via combination of more than one of the mechanisms referenced above, then the fee will be solely for the highest level of disposition.⁷

_____ (Client initials) If the matter is resolved without any adverse action or if Firm is successful in disposing of the issue at a lower level, an accentuated fee may be proper.⁸

C. _____ (Client initials) It is important that every Client have “skin in the game.” Therefore, all Parties agree that each Client will be obligated to provide some level of contribution for <<his>><<her>> own defense, which will be known as the “Client Share.” This percentage of total expenses in the Matter shall be determined by IWP in accordance with Client’s means and other financial obligations. IWP helps lots of people, from pre-trial all the way to reintegration; therefore, we must carefully measure our assistance to each person. We understand that every Client has an incentive to minimize his own contribution and maximize IWP’s. Therefore, Firm agrees to obtain – and Client consents to cooperate with Firm in obtaining – a credit report and a detailed financial

⁶ Preferral of charges constitutes the triggering event for “Court-Martial”; convening of the Article 32 investigation constitutes the triggering event for “General Court-Martial” wherein Firm may transfer a retainer from the Trust Account into their operating account, subject to subsequent recovery thereafter.

Notwithstanding any agreement or interpretation made herein, a fee must always be “reasonable” in accordance with the standards enunciated in Para II.A., so a resolution before trial may require reimbursement of some portion of a flat fee payment, which all parties explicitly agree is a matter solely in the discretion of the IWP. IWP has the money, which is why we get to call the tune. Notwithstanding IWP’s broad discretion in setting or directing recoupment or fees, we have habitual relationships with our vendor attorneys, which is why they agree to give us this discretion. We have an incentive not to screw them, since they are the best and we will need them for the next court-martial. Therefore, all things are balanced.

⁷ For example, Other Court-Martial and Administrative Action = \$15,000.

⁸ For example, if the Matter is initially slated for a General Court-Martial but Firm is able to redirect it to a Letter of Reprimand, Firm may have to put more than \$5,000 of work into the Matter. If so, IWP will determine a reasonable fee in consultation with Firm and Client to reflect the higher level of work that Firm put into the case. Client and Firm agree to defer to IWP’s determination of an appropriate fee.

statement (including three most recent Leave and Earning Statements) from Client in order to honestly evaluate <<his>><her>> capacity to contribute.

- D. ____ (Client initials) Every case is unique, and IWP and Firm are keenly aware of that. Notwithstanding the fee arrangements laid out above, a lower or higher fee may be negotiated for a particularly straightforward or particularly complicated case. If such an alternative fee is agreed to, then IWP, Client, and Firm will reflect that modification in this agreement. Modifications of fee structure may be made at any time during the case, as surprises do happen. However, no side agreements of any kind will be made to supplement or reduce any fees with the knowledge and consent of all three parties. Any side agreement between Client and Firm would constitute fraud on IWP and would subject both Client and Firm to immediate suspension and obligate Firm to immediately refund all monies previously transferred for this Matter, an eventuality that Firm explicitly agrees to honor, upon demand, in the event that IWP determines that a side agreement was made.
- E. ____ (Client initials) Client understands that the representation in the above referenced Matter may require the use of more than one attorney with Firm. Accordingly, Client authorizes Firm to use its discretion in choosing the number of attorneys or staff that should perform any task involved in the above referenced Matter and in allocating work between military counsel and civilian counsel. If Client doesn't want to use the Detailed Military Counsel, Firm and IWP will assist Client in identifying, selecting, and retaining an Individual Military Counsel (IMC).⁹ Firm will use the military counsel to reduce costs and keep a physical presence at the location where the Court-Martial will be held. Physical presence is important, but all parties understand that Firm is busy and can't be on station 24/7. Notwithstanding that fact, Firm has a moral and legal obligation to keep Client informed at all times of the status of the case. That does not mean Client has the right to pester Firm constantly, but it does mean that Firm will keep Client (and IWP, as appropriate) in the loop.
- F. ____ (Client initials) Firm, Client, and IWP specifically agree that IWP will never be liable to Firm or Client for any expenses or fees which IWP is unable to pay for whatever reason or that IWP, in its sole discretion, determines are inappropriate. By entering into this agreement, Firm and Client both specifically waive any cause of action against IWP under any grounds. IWP endeavors to assist to the extent that funds are available and support of the Matter is appropriate. If IWP determines for any reason that it is unable to provide any support or that such support is inappropriate, then IWP will inform Firm and Client and Firm and Client will need to make necessary arrangements between themselves.
- G. ____ (Client initials) In addition, Client and Firm specifically understand and agree that Firm will make monthly updates to IWP concerning the status of this Matter in the format prescribed by IWP.¹⁰

⁹ It is rare that no military counsel is on the case, but who represents Client is a matter in Client's sole discretion.

¹⁰ Because IWP sometimes supports multiple accused in the same case, Firm cannot and will not disclose privileged matters when there are co-accused. Therefore, in co-accused situations, Firm will use the IWP Co-Accused Reporting Form and restrict their comments to non-privileged matters. In those cases, IWP will concentrate on

III. EXPENSES

- A. ____ (Client initials) Client hereby authorizes Firm to incur expenses in the legal representation of Client and IWP hereby agrees to pay in advance (if requested) the expenses incurred by Firm on behalf of Client as the expenses are incurred by Firm, minus the proportional share of the expenses that comport with Client Contribution.
- B. ____ (Client initials) As with all fees, Client is obligated to pay all expenses¹¹ which Firm incurs on Client's behalf.
- (1) Firm is responsible to Client and IWP to act in a fiscally responsible manner with respect to expenses.
 - (2) Concerning expenses, the first obligation of Firm is to prudently allocate expenses to the Government under military co-counsel's lead. Expenses such as private investigator fees, investigation costs, court costs, filing fees, mailing costs (including certified and registered mail costs), express mail costs, deposition charges, copying and facsimile expenses, expert witness fees, witness expenses, long distance telephone expenses, court reporter fees and transcriptions, bond fees, scientific tests, photographs, laser disks, CD ROM expenses, computer models, messenger service, delivery service, and contractual paralegal services and legal clerical services are most appropriately borne by the Government.
 - (3) Firm travel (including but not limited to room, board and all incidental travel expenses that are necessary) and parking are usually properly expensed to IWP, subject to Client Share.
 - (4) Client information services and such as the expenses associated with necessary databases, other document databases, and other information costs such as reference documents, and all storage and rent costs and expenses associated with these documents and services, and specifically any contractual legal research needed for the defense of the case, and all other costs and contract expenses as

properly managing costs (to be identified with specificity only after completion of the Matter to ensure confidentiality of trial strategy) and preparing Client for Reintegration. When no co-Accused exists, Firm will use the IWP No Co-Accused Reporting Form, which is less limited. Moreover, IWP is not substitute (or supplementary) Defense Counsel. Concerns about representation are appropriately raised with Counsel, not IWP.

¹¹ In most cases, "Article 46"-type expenses are most properly and economically borne by the Government. Any expenses that could be borne by the Government (expert fees, travel for military counsel) that Firm wishes to have Client (or IWP) bear must be pre-coordinated and justified using the IWP Supplemental Expense Request Form. In instances that case exigencies require non-disclosure of expenses to IWP to protect Co-Accused Confidentiality, a IWP Co-Accused Expense Request will be made which allows advance of expenses and post-case justification. Use of the IWP Co-Accused Expense Request entails a risk for Firm, as Firm agrees to remit the expense upon a finding by IWP, in its sole discretion, that the expense was not appropriate or should have been provided by the Government.

Firm deems necessary by the use of contractual attorneys or contract workers shall ordinarily be borne by Firm.

- C. ____ (Client initials) At the time the case is closed, an accounting will be made for all disbursements made in the case, including costs and attorneys fees, and provided to Client and IWP. Firm is entitled to draw from its Trust account to periodically cover expenses. In its sole discretion, IWP shall review expense reports and determine whether expenses as presented are (or were) reasonable. If IWP Executive determines expenses were unreasonable in any particular, then IWP may request a written explanation from Firm. IWP Executive will make a determination of reasonableness. If an adverse determination is made, Firm will be notified immediately and agrees to remit all contested monies with thirty (30) days to IWP. Firm may appeal such a determination of inappropriate fee expensing to the IWP Board, which will not cause the remission of contested fees to be delayed. Upon completion of review by the IWP Board, Firm and Client agree that no further review will be available.

IV. RETAINER FEE; DISCLOSURE STATEMENT OF FINANCE CHARGES INVOICES FOR SERVICES AND EXPENSES

- A. ____ (Client initials) The normal Retainer Fee to be paid over is one-half of the ordinary fee plus 10% for expenses, which will be further split into three tranches and paid over in equal $\frac{1}{3}$ shares into Firm's Trust Account upon (1) the acceptance of this Agreement by IWP, (2) Firm certification of subsequent and complete review of the case file and allied papers, and (3) Firm receipt of the Pre-Trial Order.
- B. ____ (Client initials) This retainer shall be paid over to Firm, subject to availability of funds, generally over at least a three-month period subsequent to Board meeting which authorize each expenditure. Notwithstanding any other provision of this agreement, failure of Firm to provide timely and proper reports shall result in a non-payment of that tranche, although such non-payment shall not justify cessation of work on the Matter notwithstanding any other provision of this Agreement.
- C. ____ (Client initials) Concerning expenses, the retainer fee shall be "evergreen," in the sense that IWP shall "fill up" the Retainer upon earning and accrual of each portion of the fee, and – in the case of the expense portions – when the account reaches 5% or less of the expense allowance. These payments shall be delivered to Firm by the IWP Executive upon request from Firm subsequent to required certifications and without further action by the Board.
- D. ____ (Client initials) This Fee portion of the Retainer shall remain in Firm's trust account as a security deposit during the pendency of the representation, except as deducted periodically as accrued and earned. Firm shall apply the Retainer against the fees and expenses arising during the representation. If no additional fees or expenses are owed at the end of the representation, the unbilled portion of the Retainer Fee shall be refunded to IWP. Client Share shall be remitted to IWP, subject to distribution to Client on a discretionary basis.

- E. ____ (Client initials) Firm shall provide billing on a monthly basis to IWP and shall also provide billing to Client, upon request, setting forth, in reasonable detail, all advances for the above mentioned expenses or other deductions from the Retainer Fee, and a reasonable description of services rendered by Firm on Client's behalf. Firm shall use the format provided by IWP for such reporting. As previously agreed upon, a full accounting shall be provided at the conclusion of the representation.
- F. ____ (Client initials) Every Client will be expected to provide a Client Share, which shall be determined in consultation with all parties before the execution of this agreement. The sequence of payment of Client Share shall be arranged between Firm and Client. Such collection of Client Share shall be reflected in Firm's monthly report. Since IWP is never obligated to pay anything, no interest shall be payable by IWP on any un-transferred portion of the "outstanding balance."
- G. ____ (Client initials) The usual practice of Firm shall be to deduct from Retainer Invoices created by Firm and provided as part of the monthly report. This technique will also be followed concerning expenses from third parties such as courier services, court reporter, expert witnesses, and reproduction services.
- H. ____ (Client initials) In the course of Firm's representation of Client, if Firm anticipates a significant increase in the level of its activity on Client's behalf (e.g., the commencement of trial preparation or trial), Firm may request supplemental or expedited payment. IWP and Client will expeditiously pay those requests when appropriate. Such a determination is solely within the discretion of IWP.

V. WITHDRAWAL FROM EMPLOYMENT

- A. Firm may withdraw from the representation of Client in the above referenced Matter at any time if:
- (1) ____ (Client initials) Client renders it unreasonably difficult for Firm to carry out its employment;
 - (2) ____ (Client initials) Client insists that Firm engage in conduct that is contrary to the judgment or advice of Firm;
 - (3) ____ (Client initials) Client deliberately disregards an agreement or obligation to Firm as to expenses or fees, or for services rendered, including not paying bills upon presentation or in advance, such as when a retainer is requested or required by Firm;

- (4) ____ (Client initials) Firm determines that a conflict of interest has arisen as a result of the representation of Client and Firm and Client agree that the conflict requires new counsel; or
- (5) ____ (Client initials) Client refuses to indemnify Firm prior to any actions that Client has requested Firm undertake and that Firm believes and has advised Client might result in possible sanctions for alleged groundless or bad faith actions or defenses.
- B. ____ (Client initials) In the event that Firm's financial arrangements are not met by Client or IWP, respectively, or in the event that any of the above events in subparagraph V.A. occur, or any other matter or issue presents itself during the representation that makes it inappropriate for Firm to continue the representation, Firm may withdraw as counsel. Client specifically agrees to Firm's withdrawal if Firm's fees and expenses are not timely paid by Client and/or IWP as set forth herein or any of the events in subparagraph V.A. above occur.
- C. ____ (Client initials) By execution hereof, Client authorizes Firm to represent to any Court, should any litigation then be pending, the fact of Client's acquiescence in Firm's withdrawal. Firm's withdrawal in such circumstances would not relieve Client from the legal obligation to pay the balance due Firm's fees and expenses incurred before the date of withdrawal.
- D. ____ (Client initials) The legal fees agreed upon herein are for representation of Client in the above-referenced Matter and do not include Firm's legal services in any other Matter. For instance, if Client is charged in a new grievance a new engagement agreement shall be prepared. In the event that representation is required in any other court or an appeal or regarding any other matter, not related to the above referenced Matter, a new agreement may be made between Firm, Client, and IWP, after the parties have discussed the situation.
- E. ____ (Client initials) Client has the right to terminate the relationship with Firm at any time upon written notification. Client's termination of Firm does relinquish any of Client's obligations as set forth herein. If Client terminates Firm's representation, Firm will promptly return to Client any and all papers and property, as well as the balance of the Retainer not previously applied against outstanding invoices or the last month's fees and expenses. Both Client and Firm will also prepare a report for IWP detailing, with specificity, why termination occurred.

VI. FAVORABLE OUTCOME NOT GUARANTEED

- A. ____ (Client initials) Client understands that neither Firm nor IWP have made to Client any representations or statements concerning the outcome of the above referenced Matter, or the favorable outcome of any legal action that may be filed. No representation has been made by Firm or IWP to Client regarding reimbursement to Client of any of the

fees, costs, and/or expenses incurred by Client in the above referenced Matter. Client further expressly acknowledges that all statements of Firm and IWP on this Matter are statements of opinions only; there have been no representations as to the outcome of any Matter. Client further understands that if the above referenced Matter is litigated and a judgment is rendered against Client, Client may be responsible for court costs and fees.

VII. DISAGREEMENT

- A. ____ (Client initials) Neither Client, Firm, nor IWP anticipates that any of the Parties will have any complaints about the other. It is possible, however, that disputes might arise. In order to facilitate a quick and inexpensive resolution of any such disputes, all parties agree that any disputes which involve IWP in any way, whether contractual or tortious in nature, will be resolved exclusively by IWP Executive, subject to appeal and final decision by the IWP Board.
- B. ____ (Client initials) Any controversy between Client and Firm will be resolved between them via binding arbitration, and IWP shall not be compelled to participate in any controversy pitting Client against Firm, or *vice versa*. To further clarify this agreement, arbitration would apply to any controversy, claim or dispute in the course and scope of the lawyer-client relationship or arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, which does not involve IWP. In the event non-IWP disputes arise, the matter shall be submitted to binding arbitration in a manner consistent with the provisions applicable to the State which governs Firm. In that event, the (non-IWP) arbitrator will specifically include in a final decision any claim for a premium pursuant to paragraph II.D, if an agreement as to the premium cannot be reached prior to the request for arbitration.
- C. ____ (Client initials) “Disputes” could include, without limitation, those involving fees, costs, billing, and breach of ethical or fiduciary duties. In the event that IWP is involved, arbitration will not be necessary, as all parties agree that IWP shall decide with sole discretion any controversy involving IWP. IWP may, in its sole discretion, remove itself from any dispute and return the matter to Client and Firm for resolution between them via arbitration.
- D. ____ (Client initials) If non-IWP arbitration is necessary, the arbitrator shall, in the Award, allocate all of the costs of the arbitration (and the mediation, if applicable), including the fees of the arbitrator and the reasonable attorney’s fees of the prevailing party, against the party which did not prevail. A finding of the prevailing party shall be done by the arbitrator. Judgment on the award may be entered in any court having jurisdiction.
- E. ____ (Client initials) By Client’s signature on this Agreement, Client agrees that the arbitrator’s decision in any such arbitration shall be binding, conclusive and non-appealable.

- F. ____ (Client initials) In the case of IWP-conducted resolution of a disagreement, Firm and Client agree that IWP's decision shall be binding, conclusive and non-appealable, except as to the fact that the IWP Board may, in its sole discretion, agree to entertain an appeal from a decision of the Executive.

VIII. MISCELLANEOUS PROVISIONS

- A. ____ (Client initials) Client will advise Firm and IWP in writing of any change of address and/or employment within ten (10) days of the making of such change.
- B. ____ (Client initials) In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, or unenforceability shall not affect any other provisions, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision does not exist.
- C. ____ (Client initials) Client and Firm hereby acknowledges that Client has carefully read this entire Agreement; Firm has gone through the entire Agreement with Client or arranged for a military attorney to do so; that Client initialed where the Agreement indicates to show careful consideration of each provision; that Client fully understands and agrees to abide by all of the terms conditions and obligations of this Agreement; and that Client has received a true and correct copy of this Agreement from Firm. Firm shall provide a copy of this Agreement to IWP for review, approval, and counter-signature, although this Agreement shall be valid *vis-à-vis* Firm and Client upon their respective signatures.
- D. ____ (Client initials) This Agreement constitutes the full and complete understanding and agreement of the parties hereto, supersedes all prior understandings and agreements, if any, and cannot be changed or terminated orally. All changes or modifications must be in writing and signed by the parties hereto.
- E. ____ (Client initials) This Agreement shall be construed in accordance with the laws of the State which controls Firm's right to practice.¹² Firm agrees to indemnify IWP for any costs whatsoever IWP may incur pursuant to any controversy involving this Agreement. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.
- F. ____ (Client initials) If Client should become seriously displeased or dissatisfied with any aspect whatsoever of his legal representation or in the event Client should have any serious question concerning the same, Client should notify Firm and IWP in writing by certified mail, return receipt requested of that dissatisfaction or question.

¹² If more than one jurisdiction controls Firm's right to practice, IWP shall be entitled to select one jurisdiction. Such selection shall be conclusive.

- G. ____ (Client initials) Client's file will be retained for two (2) years after representation has been completed and will then be discarded, except for information that may be used by the attorney in the future, unless longer maintenance is required by law or regulation. If Firm maintains Client's file for longer, then right to access will continue. Absent any ongoing conflicts, IWP shall have the right, without further consultation with Client or any other entity, to review, inspect, or use Client file for any purposes whatsoever. If any conflict exists, Firm will maintain Client file until after the conflict no longer exists and then inform IWP of the resolution of the conflict and Firm's intention to now dispose of Client's file. IWP shall have sixty (60) days from notice to review or extract any items from Client's file and use them in any way IWP deems fit. Firm shall furnish IWP Client's file, in the manner and to the location that IWP indicates, at the expense of Firm.
- H. ____ (Client initials) Upon notice to IWP and Client, Client shall promptly pick up non-case-file material furnished to Firm and Firm shall have no responsibility for retaining Client's non-case-file materials after the case has been closed for forty-five (45) days. Firm has the authority to return to Client what it deems appropriate. Client further agrees that general information which preserves the attorney-client relationship may be used by Firm for Firm purposes without compensation or further permission.
- I. ____ (Client initials) Similarly, Client agrees that any material whatsoever may be used by IWP for IWP purposes with compensation or further permission.
- J. ____ (Client initials) Client further understands that this agreement extends through the hearing and trial of this cause. Firm will not have any duty to undertake any further action under this contract of employment.¹³ If there is to be an appeal of this case and Firm and Client agree to appeal this case, the Agreement for the appeal will be negotiated at that time.
- K. ____ (Client initials) If this Matter becomes a non-litigation Matter, then the principles underlying this Agreement shall continue to apply and the Agreement shall be interpreted in light of the non-litigation nature of the new relationship between IWP, Client, and Firm. Notwithstanding any previous reference to "trial" or "litigation," all parties understand that Firm will attempt to obtain the best result for Client, subject to Client's articulation of what "best result" means to <<him>><<her>>.
- L. ____ (Client initials) Client understands that Firm was given limited notice in preparing this case. Client is further aware that Client may have made agreements, taken positions, made admissions, or performed acts that make it challenging for Firm to obtain the ideal result for Client. Numerous issues are raised in the documents Client has provided that present impediments to the full and complete representation of Client. Knowing of these difficulties, Client has nevertheless requested that Firm undertake <<his>><<her>> representation understanding the handicap Firm will be under.

¹³ As for IWP, it is under no obligation to Firm or Client whatsoever for any purpose, a fact which Firm and Client specifically and explicitly agree to.

- M. ____ (Client initials) Firm recognizes that technology is ever-evolving and that electronic communications cannot be fully protected from unauthorized interception. In addition, human error may at times result in electronic communications being sent in error. Nevertheless, for efficiency purposes Firm may transmit information, including information of a confidential nature, by email to Client unless Client requests Firm not to.
- N. ____ (Client initials) Similarly, Client and Firm both recognize that technology is ever-evolving and that electronic communications cannot be fully protected from unauthorized interception. In addition, human error may at times result in electronic communications being sent in error. Nevertheless, for efficiency purposes IWP may transmit, receive, or store information, including information of a confidential nature, via electronic means.
- O. ____ (Client initials) Firm's duties to its Client are different than IWP's duty – such as it is – to either Firm or Client. Therefore, Client and Firm both agree to indemnify and hold harmless IWP for any possible actions which Firm or Client – or anyone else with standing to complain –believes has harmed them.
- P. ____ (Client initials) There should not be any problems in making payment for Firm's services and expenses. Nevertheless, Client consents and agrees that Firm may disclose confidential information to a collection agency to enable the agency to collect any fees due to Firm from Client. As previously explained, neither Client nor Firm have any standing or grounds whatsoever to seek to collect anything of value from IWP. By executing this Agreement, both Firm and Client agree to this principle. **Since both Firm and Client are waiving potentially important rights, each should carefully consider this waiver and Client should ensure independent military counsel reviews this contract and this provision concerning Client's waiver of rights.**
- Q. ____ (Client initials) Similarly, both Client and Firm agree that no deviations shall be made from the text of this Agreement with specific notice of said deviation, in writing. Alterations made to the model Agreement, as drafted by IWP and provided to Firm, shall not accrue to the detriment of IWP. If any such alterations are made, Firm agrees to indemnify and hold harmless IWP.

IX. CONFLICT OF INTEREST

- A. ____ (Client initials) As of the date of this agreement, Firm has conducted an extensive search of Firm's other client relationships in order to determine whether representation of Client would create a conflict of interest in connection with other attorney-client relationships of Firm. Firm's search for relationships will be a continuing one. Firm has discovered no existing attorney-client relationships that create a present conflict of interest. Notwithstanding that fact, issues involving the legal affairs of other clients of Firm, while not present now, may raise an adverse interest of such other Firm clients and Client may be adversely affected at a future date. In the event such circumstance occurs, Firm would not represent Client in matters adverse to another Firm's client. Client would be required to retain counsel other than Firm to represent Client's interest in such matter. In

addition, if such adverse representation pertains to another Firm client, with whom Firm has an attorney-client relationship as of the date of this agreement, to the extent Firm’s representation of such existing Firm client is acceptable by that client as being permitted under applicable ethical standards, and to the extent permitted by law, Client consents to Firm’s continued representation of such existing Firm client and Client will not seek to obtain disqualification of Firm as the legal representation of such other Firm client.

B. ____ (Client initials) As for IWP, Firm endeavors to ensure that no conflict arises between Client’s interests and the interest of any other beneficiary of IWP. As such, IWP will make available a comprehensive Beneficiary list to Firm at Firm’s request, which Firm will review to ensure no Co-Accused are being assisted by IWP. If a Co-Accused is identified, Firm will immediately inform IWP and ensure that all materials previously submitted are reconfigured to prevent any harm to Client’s interests. Upon notification, IWP will replace all No-Co-Accused materials in its possession with the reconfigured reports, although Firm and Client specifically waive any complaint if IWP fails to do so or is negligence in said replacement. Client and Firm both explicitly waive any complaints about IWP’s assistance of Co-Accused, as IWP’s role in this process is not to act as a law firm but instead to benefit all Service Members.

C. ____ (Client initials) IWP endeavors to assist all Service Members it can, and IWP is sensitive to the potential divergence of interests between Firm, Client, and IWP. Firm and Client accept IWP’s assistance in whatever form IWP elects to provide it; and, in exchange, Firm and Client acknowledge that such assistance is purely eleemosynary and does not give rise to any claim, cause of action, legal grounds to complain, or non-legal grounds to moan and complain.

UNDERSTOOD and AGREED TO this ____ day of _____, 2013.

By: _____
<<CLIENT>>
<<RANK>>, <<SERVICE>>

ACCEPTED BY:

<<FIRM>>

By: _____
<<Attorney>>
<<Attorney Address>>
<<Attorney Phone>>

ACCEPTED BY:

The Innocent Warrior Project

By: _____
Heather Ellis
The Innocent Warrior Project
7800 Airport Center Drive, Suite 401
Greensboro, NC 27409
(336) 478-2346
www.unitedpatriots.org

Created: 21 February 2013

Amended: _____