

EXHIBIT A

FISCAL YEAR 2013 RETENTION AGREEMENT COLLECTIONS SPECIAL COUNSEL Appointed by Ohio Attorney General Mike DeWine

This Retention Agreement for Special Counsel (hereinafter “Retention Agreement” or “Agreement”) is entered into by and between the Ohio Attorney General and the undersigned Special Counsel, an attorney licensed to practice law in Ohio.

Article I RECITALS

Whereas, the Attorney General, pursuant to Ohio Revised Code Section 109.08, is empowered to appoint Special Counsel to represent the State in civil actions, criminal prosecutions, or other proceedings in which the State is a party or directly interested; and

Whereas, the purpose of this Retention Agreement is to set forth the rules and procedures for the appointment and retention of Special Counsel who shall provide legal services to the State of Ohio relating to the collection of public moneys due to the State.

Now therefore, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the sufficiency of which is agreed to by the parties hereto, the Attorney General and Special Counsel (individually referred to as the “Party”, collectively “the Parties”) hereby agree as follows:

Article II TERM

The term of this Retention Agreement shall begin on July 1, 2012 and shall terminate on June 30, 2013, unless terminated by the Attorney General, as set forth herein, or as a result of the completion of all work for the assignment (“Termination”). No services rendered by Special Counsel after the date of Termination shall be authorized or payable without an additional agreement from the Attorney General.

Article III SERVICE

Section 1 Scope of Appointment

Special Counsel and its employees shall conduct any and all legal and collection work assigned by the Attorney General. Both Parties recognize that the appointment of Special Counsel is personal in nature and does not extend to any law firm that the Special Counsel is associated with, a partner of, or for which Special Counsel serves as “of counsel.” There shall be only one Special Counsel appointed in a law firm.

Work hereunder shall be performed in a professional manner consistent with the accepted

standards for practice in the legal profession including, but not limited to, the Ohio Supreme Court Rules for Government of the Bar and the Ohio Rules of Professional Conduct.

In view of the personal nature of the services to be rendered under this appointment, the Attorney General's Office or its designee shall be the sole judge of the adequacy of those services.

Section 2 Delegation of Work

Special Counsel may, only with the express written consent of the Attorney General, delegate legal work to another attorney outside the firm with which the Special Counsel is affiliated. Such Attorney must have qualifications and experience similar to the Special Counsel and shall work under the supervision and control of the Special Counsel. Although delegation may be permitted as provided herein, delegation shall not relieve Special Counsel of any responsibility or liability for the work performed hereunder. In the event that Special Counsel delegates work to other attorneys in other firms, the compensation of attorneys shall be a matter beyond the scope of this Retention Agreement to be negotiated in writing between the Special Counsel and those attorneys prior to the commencement of any work by the firm to whom the work is delegated and shall be paid by Special Counsel. A copy of such compensation agreement shall be filed with the Director of Special Counsel in the Collections Enforcement Section.

The delegation of work described above is the only delegation permitted under this Agreement. Under no other circumstances may Special Counsel subcontract, forward, assign, or otherwise delegate work assigned by the Attorney General to any other individual or entity. All work pursuant to this Agreement shall be conducted by employees of Special Counsel's law firm.

Section 3 Attorney-Client Relationship

The Attorney General is the chief law officer of the State of Ohio and, as such, is the legal representative of the State, including its various agencies, boards, commissions, departments, colleges, universities, political subdivisions and retirement systems (collectively, the "State Clients"). Special Counsel is being appointed hereunder to provide legal services on behalf of the Attorney General to assist in the collection of past due debt. Special Counsel will render services pursuant to this appointment as an independent contractor. No Special Counsel, whether for purpose of applications of Ohio Revised Code Chapter 102, R.C. 9.86 or 9.87 or for any other purpose, shall be regarded as in the employment of, or as an employee of, the Attorney General or the State Clients.

In all pleadings, notices and/or correspondence created pursuant to the work being performed hereunder, Special Counsel shall indicate that such document is prepared by the Special Counsel in its position as Special Counsel for the Attorney General.

During the term of this appointment, Special Counsel shall be engaged by the Attorney General solely on an independent contractor basis, and Special Counsel shall therefore be responsible for all Special Counsel's business expenses, including, but not limited to, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Worker's Compensation and Unemployment Compensation, if any. Special Counsel shall not print business cards using the Attorney General's logo.

Section 4 Claim Assignment

For the purposes of this Retention Agreement, a claim or an account or a record is a debt due the State of Ohio or a political subdivision. Should Special Counsel receive assignment of a claim(s) from the Attorney General, Collections Enforcement Section, such assignments will be transferred electronically and are subject to the provisions of this Retention Agreement.

Special Counsel that substantially increases the collections of its assigned claims, while maintaining quality customer service, may be eligible to have an increase in the number of claims assignments made by the Attorney General's Office. Special Counsel who is not successful may have a decrease in assignments or termination. Special Counsel agrees to abide by all policies and procedures promulgated by the Attorney General relating to collection of claims.

Section 5 Specific Performance Measures

A personal performance review may be conducted on all Special Counsel at the discretion of the Attorney General. Performance reviews may include, but are not limited to, the following areas: collection ratios, performance measures based on historical averages and comparisons of new and old accounts and various account types, customer service complaints, compliance with Attorney General policies, reports, legal actions taken, status updates, and interviews. The Attorney General may communicate in writing any additional specific performance review requirements.

As a result of this review, Special Counsel's inventory of claims may be increased or decreased, the Agreement terminated, or any other sanction contained in Article VII may be imposed at the sole discretion of the Attorney General.

Special Counsel will be afforded an opportunity to confer with the Attorney General's Office on any significant issues resulting from the Special Counsel performance reviews. If requested, Special Counsel agrees to provide the Attorney General or his authorized agent access to all documents, papers, records, and/or computer searches involving the services to be performed under this Agreement, including all documents required by this Agreement.

Section 6 Noteworthy Matters

Special Counsel agrees to consult either orally or in written format, with the Director of Special Counsel in the Collections Enforcement Section as soon as possible on all matters arising out of, or related to, Special Counsel's work hereunder that may be controversial, high profile, or otherwise noteworthy.

A matter is deemed noteworthy if it has the potential for drawing media attention, involves a significant change in the law or injunctive relief that would be extremely detrimental to the State, is particularly controversial, is an appeal or defense of an appeal, or involves a settlement in excess of **\$500,000**. It is considered noteworthy if Special Counsel is sued in any court of law where he/she is named or his/her firm is named as a defendant.

Upon the filing of any pleading in a noteworthy matter, as defined herein, Special Counsel shall provide a time-stamped copy of such filing to the Director of Special Counsel in the Collections Enforcement Section.

Section 7 Media Statements

The Parties agree that neither Special Counsel, nor any partner, associate, employee, or any other person assisting with the legal work contemplated by this Retention Agreement, shall publish any material, including online publications, or speak to or otherwise communicate with any representative of a television station, radio station, newspaper, magazine, website, or any other media outlet concerning the work outlined or contemplated by this Agreement without first obtaining approval of the Section Chief of the Collections Enforcement Section and/or the Director of Communications of the Attorney General's Office. Special Counsel shall not speak on behalf of the Ohio Attorney General to any member of the news media.

Section 8 Public Records Act/Confidentiality

Special Counsel shall describe and provide all material commissioned or gathered by Special Counsel or in Special Counsel's possession that fulfills an obligation of the Appointment, including names and addresses of potential witnesses. All such material shall be considered property of the State of Ohio. Special Counsel agrees to adhere to R.C. 149.43 and maintain all public records in accordance with state law.

Special Counsel shall consult with and obtain the approval of the Chief of the Collections Enforcement Section before responding to any public records request. Moreover, Special Counsel shall not disclose any information obtained in performing its services hereunder in violation of any state or federal law, including, but not limited to, the Family Educational Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as the same may be amended or modified from time to time. Special Counsel must also submit signed FERPA and HIPAA Acknowledgments, if applicable to the scope of representation, to the Attorney General at the time of execution of this Agreement (copies attached to and incorporated herein).

Special Counsel acknowledges its obligation to hold in confidence sensitive and confidential information provided by the Attorney General pursuant to this agreement and will agree to take reasonable security measures. Special Counsel shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the Attorney General. Special Counsel shall instruct in writing Special Counsel's employees to use a high degree of care to keep confidential all information concerning the State of Ohio's client data, its business, its financial affairs, the relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential in writing by the Attorney General. All provisions of this Agreement relating to "confidentiality" shall remain binding upon Special Counsel at the expiration of this Agreement or in the event of termination. Special Counsel and its employees must also submit a signed Confidentiality Agreement to the Attorney General at the time of execution of this Agreement (copy attached to and incorporated herein).

Special Counsel must maintain and file with the Director of Special Counsel in the Collections Enforcement Section a written policy and enforced practice for the safeguarding of a debtor's identity, including social security numbers, identification number, and other information that could be used to debtor's disadvantage. This policy must include secure destruction of data under supervision, as well as the enforced prohibition of the unauthorized acquisition or retention of information by support staff and personnel, including social security numbers. Counsel must

submit a copy of this policy to the Attorney General at the time of execution of this Agreement. Special Counsel must also submit a signed Acceptable Usage Policy, Privacy Agreement, and other documents as deemed necessary by the Attorney General to safeguard the information under its guardianship, at the time of execution of this Agreement (copies attached to and incorporated herein).

Section 9 Correspondence

Any notice required under this Retention Agreement shall be made in writing and shall be accomplished by personal delivery or by United States Certified mail, return receipt requested, postage prepaid, addressed to the other Party. Such notice shall be addressed to the Section Chief of Collections Enforcement in the Attorney General's Office and mailed to 150 E. Gay St., 21st Floor, Columbus, OH 43215 or such other address as it may hereafter designate in writing. Notice to Special Counsel shall be to the person and at the address provided below by personal delivery or by United States Certified mail, return receipt requested, postage prepaid:

Name

Title

Address

City/State/Zip

Article IV Settlements

Section 1 Settlements

The Attorney General encourages negotiations or attempts to settle assigned claims. Special Counsel understands and agrees that the initiation of litigation on behalf of the State and all final settlements must receive the prior approval of the Attorney General. Special Counsel shall confer with the Attorney General's office on the waiver of interest.

Special Counsel shall confer with the Section Chief of Collections Enforcement or her designee in the Attorney General's Office early in the settlement negotiation process. Specifically, Special Counsel agrees to confer with the Attorney General's Office about the following matters when applicable:

1. Confidentiality provisions in settlement agreements
2. The Ohio Constitutions biennial limitation
3. Indemnification provisions
4. Release language
5. Naming of the State as a party

Article V COMPENSATION

Section 1 Limitations

Special Counsel shall be compensated only for the satisfactory performance of services provided as set forth in the Retention Agreement. Special Counsel shall be compensated only in accordance with the express written provisions of this Retention Agreement and shall not receive reimbursement for expenses incurred in the performance of Special Counsel duties in accordance with the terms of this Retention Agreement.

Special Counsel shall not be compensated by another party for services performed hereunder. Special Counsel shall also not be compensated in excess of the amount expressed within this Retention Agreement.

Section 2 Compensation Fund

Pursuant to R.C. 109.08, Special Counsel will be compensated for services rendered through payment of a fee from funds collected by Special Counsel on a specific claim, in an amount approved by the Ohio Attorney General or his designee. All moneys collected or received by Special Counsel relating to a claim shall be forwarded to the Ohio Attorney General's Office. Upon receipt of such funds, Attorney General's Office shall calculate the fee payment due Special Counsel under this Agreement and shall remit the same to Special Counsel. In no event shall Special Counsel withhold or deduct its fee from funds received by it. Fee payment shall only be made by the Attorney General.

Section 3 The Fee

A. The Formula

Any assignments or accounts assigned to Special Counsel **on or after the effective date of this Retention Agreement or on or after September 12, 2007** will be paid as follows:

The standard fee shall be thirty-three percent (33%) of the first twenty five thousand dollars (\$25,000) collected on any claim or account. After the standard fee has been taken, the remaining fee will be paid on a sliding scale (see below). The Attorney General reserves the right to modify the standard fee in a writing delivered to Special Counsel.

Except as otherwise noted in Article IV, Section 3(B), the total amount paid to Special Counsel shall not exceed one-third (1/3) of the funds collected on a specific claim.

For collection in excess of \$25,000, the fees shall be calculated as follows:

<u>Amount of Recovery</u>	<u>Fee Percentage (%)</u>
\$25,000-\$99,999	7
\$100,000-\$450,999	6
\$451,000-\$750,999	5
\$751,000-\$999,999	4
\$1,000,000-\$2,999,999	3

Exceptions to the standard 33% fee and sliding scale are: Medicaid Estate Recovery and Medicaid cases will be paid at a flat twenty percent (20%); Ohio School District Tax will be paid at a flat twenty-one percent (21%); Ohio Department of Jobs and Family Services and University Claims will be paid at a flat twenty-five percent (25%). Special Counsel will not be paid a fee on any collections resulting from any Federal or State offset program, including unclaimed funds.

The Ohio Attorney General's Office will determine the payment method and schedule for compensation distributed to Special Counsel.

Any assignments or accounts to Special Counsel which were assigned **prior to September 12, 2007** will be paid as follows:

The standard fee shall be 33% of the first thirty thousand (\$30,000) collected and ten percent (10%) of any additional amounts collected on a specific claim. The exception to this fee schedule is as follows: Medicaid Estate Recovery and Medicaid cases will be paid at a flat twenty percent (20%); Ohio Department of Jobs and Family Services will be paid at a flat twenty-five per cent (25%); and University claims will be paid at a flat thirty-one percent (31%) and a flat 10% on any amounts over \$35,000. Except as otherwise provided in Article IV, Section 3(B), the total amount paid to Special Counsel shall not exceed one third (1/3) of the funds collected on a specific claim.

B. Payment Installment Plans

If a payment plan, as defined by R.C. 131.02, has been established by Special Counsel with the debtor, fees for Special Counsel will be paid on each installment payment, so long as each payment is timely under the installment plan and the payment plan does not exceed five years in length. Failure to make a timely payment under any installment payment plan constitutes a breach by the debtor.

Further, no payment plan established by the Special Counsel shall exceed five years in length without prior written approval from the Chief of the Collections Enforcement Section. If the Retention Agreement is terminated or expires, Special Counsel shall not receive a fee for collections received after the date of termination or the expiration of the Retention Agreement.

Article VI OTHER TERMS AND CONDITIONS

Section 1 Counterparts

This Retention Agreement may be executed in one or more counterparts, each of which shall be an original and all of which constitute one and the same instrument.

Section 2 Severability of Terms and Conditions

If any provision of this Retention Agreement shall be held invalid, illegal, or unenforceable in any respect, said provision shall be severed.

The validity, legality, and enforceability of all other provisions of this Retention Agreement shall not be affected or impaired unless such severance would cause this Retention Agreement to fail of its essential purpose.

Section 3 Equal Opportunity

In the hiring of employees for the performance of work under this Agreement, Special Counsel agrees not to discriminate on the basis of race, color, religion, sex, age, disability, military status, national origin, ancestry, sexual orientation or gender identity, characteristics or expression against any citizen of this state in the employment of a person qualified and available to perform the work to which this Retention Agreement relates.

Special Counsel further agrees not to discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, military status, disability, national origin, ancestry, sexual orientation or gender identity, characteristics or expression.

R.C. 125.111 requires any company doing business with the State of Ohio to maintain a written affirmative action program addressing employment practices. The law further requires that this plan be filed annually with the Department of Administrative Services, Equal Opportunity Division. Special Counsel represents that it has a written affirmative action program and has filed a description of the affirmative action plan and a progress report on its implementation with the Equal Opportunity Division of the Department of Administrative Services. Compliance, and the liability for non-compliance with R.C. 125.111(B), is the sole responsibility of Special Counsel.

Section 4 Entire Agreement/Integration

The Request for Qualifications for Collections Special Counsel, Fiscal Year 2013 (“RFQ”) and Special Counsel’s RFQ Responses are hereby incorporated by reference into this Retention Agreement. This Retention Agreement, including exhibits and documents incorporated by reference, constitutes the entire understanding of the Parties. In the event of a conflict between the terms of the body of this Agreement and any exhibits or between the terms of this Agreement and the RFQ or Special Counsel’s response to the RFQ, the body of this Agreement will control. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

Section 5 Amendment or Modification

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

Section 6 Waiver of Terms and Conditions

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any

such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

Section 7 Venue, Jurisdiction and Choice of Law

This Retention Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Any action or proceeding arising from or concerning this Retention Agreement and/or performance hereunder shall be subject to the exclusive jurisdiction of the state and/or federal courts located in Franklin County, Ohio. Special Counsel hereby irrevocably consents to such jurisdiction and venue in Franklin County, Ohio.

Section 8 Termination

A. Termination by the Parties

The Attorney General reserves the right to modify or cancel the Appointment and/or terminate this Retention Agreement at any time, in his sole discretion, and without cause or duty of explanation upon written notice to Special Counsel. If there is pending litigation, termination on the part of Special Counsel shall be effective when Special Counsel obtains leave of court to terminate its representation in the matter. Special Counsel must notify the Director of Special Counsel in writing of all pending litigation matters immediately upon termination.

Special Counsel may terminate the Appointment and this Retention Agreement upon thirty (30) days written notice to the Director of Special Counsel in the Collections Enforcement Section.

B. Compensation upon Termination

In the event this Retention Agreement is terminated by either Party, or is not renewed upon the expiration of its term, Special Counsel shall be compensated for claims collected and received prior to termination or non-renewal. Special Counsel shall not be entitled to any fee for any collections made or received, or any payment made by the debtor, after termination or non-renewal even if the collection or payment is made pursuant to a payment plan established by Special Counsel.

C. Transfer of Work

If Special Counsel is removed from any claim, case or matter, or if this Retention Agreement is terminated or is not renewed upon expiration, then Special Counsel agrees to effectuate a speedy and efficient transfer of the work and to cooperate with the Director of Special Counsel in the Collections Enforcement Section.

Special Counsel agrees to protect the client's interests in any transfer of work. Final payment to Special Counsel may be withheld if Special Counsel fails to transfer all files, documents, and materials when so requested by the Ohio Attorney General's

Office.

Section 9 Campaign Finance Compliance

Special Counsel hereby certifies that neither Special Counsel nor any of Special Counsel's partners, officers, directors, shareholders, nor the spouses of any such person, have made contributions in excess of the limitations specified in R.C. 3517.13.

This Retention Agreement shall be immediately null and void and any amounts paid to Special Counsel shall be fully recoverable by the State of Ohio if, on or after the date Special Counsel enters into this Retention Agreement, any of the applicable parties listed above have made campaign contributions to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee in excess of the amounts specified in R.C. 3517.13.

Special Counsel shall, at all times, have a completed Affidavit of Eligibility on file with the Ohio Attorney General's Office. Failure to provide a completed Affidavit of Eligibility may result in termination of the Special Counsel appointment.

Special Counsel shall, at all times, have a completed Form I-9, Employment Eligibility Verification on file with the Ohio Attorney General's Office, Director of Special Counsel in the Collections Enforcement Section. Failure to provide a completed Form I-9, Employment Eligibility Verification may result in termination of the Special Counsel appointment.

Section 10 Ohio Rules of Professional Conduct

If, during the appointment as Special Counsel, a complaint is issued against Special Counsel, Special Counsel's firm, or any attorney within Special Counsel's firm alleging a violation of the Supreme Court Rules for the Government of the Bar of Ohio, or the applicable rules (especially 1.7 through 1.11) governing the state bar in which Special Counsel has been admitted, or the Rules of Professional Conduct, then Special Counsel will give written notice, 15 days from the date of the filing of the complaint to the Chief of the Collections Enforcement Section. Such notice must include the nature of the allegations set forth in the complaint.

The Attorney General retains the right, in his sole discretion, to immediately terminate this Retention Agreement if he deems the complaint may affect Special Counsel's ability to perform the duties required herein, or such disciplinary action somehow adversely affects the Attorney General, the State Client, or the State of Ohio. The Attorney General has the discretion to wait for the disposition of the complaint.

Section 11 Conflicts of Interest and Ethics Compliance

Special Counsel represents and warrants that at the date of this Agreement, it has no conflict of interest in undertaking its representation hereunder. Special Counsel agrees that if a conflict of interest, potential or otherwise, arises pursuant to Rule 1.6 and 1.7 of the Ohio Rules of Professional Conduct, then Special Counsel will give timely written notice to the Chief of the Collections

Enforcement Section at Special_Counsel_Waivers@OhioAttorneyGeneral.gov. Special Counsel must request and obtain a written waiver prior to undertaking representation adverse to the State of Ohio, its offices, board, departments, institutions, or political subdivisions that certify debt to the Attorney General's Office.

Special Counsel represents, warrants, and certifies that it and its partners, associates, employees, and other persons assisting with the legal work contemplated by this Retention Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws. Special Counsel further represents, warrants, and certifies that neither Special Counsel, nor any of its partners, associates, employees, or other persons assisting with the legal work contemplated by this Retention Agreement, will do any act that is inconsistent with such laws.

Section 12 Headings

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction, interpretation, or effect of any of the provisions of this Retention Agreement.

Section 13 Insurance

Special Counsel shall, at its own expense, procure and maintain, during the term of this Agreement, malpractice insurance. If Special Counsel's malpractice policy does not cover acts of theft, embezzlement and/or lost funds, then Special Counsel shall procure and maintain, during the term of this Retention Agreement, liability insurance covering such losses in a form and with limits acceptable to the Attorney General. Such liability insurance shall be written by a company or companies authorized to engage in the business of general liability insurance in the State of Ohio with an A.M. Best rating of at least "A" or be otherwise approved in writing by the Attorney General. A certificate reflecting the continuing coverage of all such policies procured by Special Counsel in compliance herewith shall be delivered to the Director of Special Counsel in the Collections Enforcement Section prior to undertaking any representation under this Retention Agreement and for at least thirty (30) days prior to the expiration of any policies. Such insurance shall bear an endorsement stating that the insurer agrees to notify the Chief of the Collections Enforcement Section not less than thirty (30) days in advance of any proposed modification or cancellation of any such policy. Special Counsel agrees to carry adequate professional liability insurance, and otherwise comply with Gov. Bar R. III §4.

Section 14 Indemnification

Special Counsel agrees to indemnify and to hold the Attorney General and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Retention Agreement that are attributable to Special Counsel's own actions or omissions or those of his/her partners, associates, officers, employees, subcontractors, suppliers, third parties utilized by Special Counsel, or joint ventures while acting under this Retention Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving collection activities. Special Counsel shall bear all costs associated with defending the Attorney General and/or any State Client against any such claims.

Section 15 Findings for Recovery

Special Counsel warrants that he/she is not subject to an “unresolved” finding for recovery under R.C. 9.24. If the warranty is deemed to be false, this Agreement is void *ab initio*, and Special Counsel may be required to immediately repay to the State any funds paid under this Retention Agreement.

Section 16 Drug Free Workplace

Special Counsel agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any and all of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use, or possess illegal drugs or abuse prescription drugs or alcohol in any way.

Section 17 Accounting/Financial

All payments collected by Special Counsel shall be made payable to the Ohio Treasurer of State. **Restrictively endorsed payments and/or payments accompanied by documents that contain restrictive endorsement language shall be immediately forwarded to the Collections Enforcement Section at 150 E. Gay St., 21st Floor, Columbus, OH 43215.** All other payments received by Special Counsel, including those made payable to Special Counsel, shall be immediately forwarded to the Collections Enforcement Lock Box.

Special Counsel shall keep all financial records and other documents related to this Retention Agreement in a manner consistent with generally accepted accounting principles and Attorney General policies. All records and related documents shall be filed in a manner so that they are easily accessed and located. Special Counsel agrees to provide the Ohio Attorney General or his authorized agent with full access to examine documents, papers, and records involving the services to be performed under this Retention Agreement.

The Attorney General’s Office reserves the right to audit the financial and business records that are associated with the Attorney General’s Office accounts and related cash receipts of Special Counsel to assure that proper reporting and remittance are submitted to the Attorney General’s Office. This audit may be performed by the Ohio Attorney General or his authorized agent, internal audit staff, independent accountants, or the Ohio Auditor of State. The expense of such audit shall be at the cost of the Attorney General’s Office unless the audit establishes grounds for termination of the contract. In such case, the costs of the audit shall be payable by Special Counsel.

Special Counsel shall make its books and records available for inspection and audit during the period covered by this Retention Agreement and until the expiration of two (2) years after final payment under the Retention Agreement. Special Counsel will be responsible for costs incurred for storing and providing these records.

Section 18 Constituent Complaints

Special Counsel must conduct business in a manner that supports the Ohio Attorney General’s goal of fair and equitable treatment of debtors during the collection of debts. At a

minimum, fair and equitable treatment means debt collection without harassment or verbal abuse of the debtor, or compromising the debtor's rights. The Attorney General expects Special Counsel to provide services to the public in a manner that will preserve or enhance goodwill between the public and the State of Ohio.

The Attorney General's Office has zero tolerance for collection actions or activities that demonstrate anything less than complete respect for the rights and reasonable expectations of the public.

Special Counsel shall file and maintain with the Director of Special Counsel in the Collections Enforcement Section a written policy regarding customer service for his/her staff and personnel. An annual training session should be provided to his/her staff on customer service practices and any updated information regarding policy and procedures for the accounts assigned by the Attorney General's Office.

Section 19 Compliance with Law

Special Counsel agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. Special Counsel accepts full responsibility for payment of all unemployment compensation insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all taxes or payroll deductions required for all employees engaged by Special Counsel in the performance of the work authorized and assigned. Special Counsel must furnish evidence of workers' compensation insurance coverage to the Director of Special Counsel in the Collections Enforcement Section. In addition, Special Counsel must comply with the same standards of behavior as set forth in the Truth in Lending Act, 15 USC 1601 et seq.; the Fair Credit Reporting Act, 15 USC 1681 et seq.; and the Fair Debt Collection Practices Act, 15 USC 1692 et seq.; and any and all ancillary or collateral laws, regulations or administrative laws that apply to the above. Failure to comply with this provision will result in sanctions allowed by law and in this Agreement.

Consistent with Article III, Section 3 of this Agreement, Special Counsel agrees that no agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Retention Agreement. Special Counsel assumes all responsibility for any federal, state, municipal, or other tax liabilities, and insurance premiums which may accrue as a result of compensation received for services rendered hereunder.

Section 20 Technical Requirements

Special Counsel must have the type of equipment necessary for electronic information storage, including a separate server to store Attorney General records, and maintain security on this equipment, firewalls and security processes as required by the Attorney General's Office. Special Counsel must maintain the ability to transmit and receive electronic files and reporting and utilize standard file formats as determined by the Attorney General's Office.

At its own expense, Special Counsel shall provide all necessary computer equipment, including but not limited to scanners, terminals, printers, communication equipment, and telephone circuits needed to perform the services required by the Attorney General's Office under this Agreement and be responsible for all licensing fees, other software costs, and other expenses related

to the requirements of the Attorney General's Office.

Special Counsel shall have secure access to the internet and must visit and use the Attorney General's Extranet daily in connection with the work assigned pursuant to this Retention Agreement. Special Counsel must also access and update Client View in the notes section of each account assigned to Special Counsel and/or provide an electronic file updating the Attorney General when working an account assigned from the Attorney General. All actions performed by Special Counsel must be documented on CUBS, the Attorney General collection system, and/or Client View. Special Counsel shall use Action Codes on Client View, CUBS, and/or the Attorney General collection system.

Special Counsel shall be responsible for printing and mailing all letters generated during the collection process. Special Counsel is required to file the appropriate pleadings, including Notice of Appearance in each case.

Special Counsel is required to complete at least 5 hours of Continuing Legal Education annually in the areas of collections, probate, or bankruptcy. Additional training will be provided by the Attorney General, and Special Counsel is required to attend.

Section 21 Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization

Special Counsel hereby represents and warrants to the Attorney General and the State of Ohio that it has not provided any material assistance, as that term is defined in R.C. 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion list and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Special Counsel further represents and warrants that it has provided or will provide such declaration to the Attorney General and the State of Ohio prior to execution of this Retention Agreement. If these representations and warranties are found to be false, this Retention Agreement is void *ab initio* and the Special Counsel shall immediately repay to the Attorney General or the State of Ohio any funds paid under this Retention Agreement.

Special Counsel shall, at all times, have a completed Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization form on file with the Director of Special Counsel in the Collections Enforcement Section. Failure to provide a completed Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization form will result in termination of the Special Counsel appointment.

Further information regarding these forms and requirements may be found on the website at: <http://www.homelandsecurity.ohio.gov/dma.asp>.

Section 22 Ohio Retirement System Retirant

If Special Counsel is a PERS retirant, as such term is defined by R.C. 145.38, Special Counsel shall notify the Attorney General of such status in writing prior to the commencement of work under this Agreement. Notices pursuant to this Paragraph shall be sent to the Attorney General's Director of Human Resources by mail at 30 E. Broad Street, 16th Floor, Columbus, Ohio 43215, by

fax at (614) 728-7582, or by email at HR@OhioAttorneyGeneral.gov. The Attorney General shall not be responsible for any changes to Special Counsel's retirement benefits that may result from entering into this Agreement.

Article VII SANCTIONS

Special Counsel is required to cooperate fully with the policies and procedures outlined by the Attorney General's Office, specifically the Collections Enforcement Section. Failure to perform any of the duties as outlined by this Retention Agreement and the Ohio Attorney General's Office's policies and procedures will result in the issuance of a notice in writing of non-compliance and may be subject to sanction, including but not limited to the following:

1. Submission of monthly reports to the Director of Special Counsel in the Collections Enforcement Section for review;
2. Attendance at required conferences with the Section Chief of the Collections Enforcement Section and/or General Counsel;
3. Suspension of new assignments to Special Counsel; and/or
4. Termination of appointment and the return of all accounts assigned.

ARTICLE VIII SAFEGUARDING CONTRACT LANGUAGE (This language only to be included for those collecting PIT and ODJFS)

Section 1 Performance

In performance of this Agreement, Special Counsel, as a contractor of the Ohio Attorney General, agrees to comply with and assume responsibility for compliance by his/her employees with the following requirements:

(1) All work will be performed under the supervision of Special Counsel or Special Counsel's responsible employees.

(2) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than the Special Counsel or employee of the Special Counsel is prohibited.

(3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

(4) No work involving returns and return information furnished under this Agreement will be subcontracted without prior written approval of the Attorney General and the IRS.

(5) Special Counsel will maintain a list of employees authorized access. Such list will be provided to the Attorney General's Office and, upon request, to the IRS reviewing office.

(6) Incident response policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementing incident response security controls.

(7) Audit and accountability policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate implementing audit and accountability security controls.

- a. To support the audit of activities, all Special Counsel must ensure that audit information is archived for six years.
- b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.

(8) The Attorney General will have the right to void this Agreement if Special Counsel fails to provide the safeguards described above, or any other safeguard required under *Publication 1075: Tax Information Security Guidelines For Federal, State and Local Agencies*.

Section 2 Criminal/Civil Sanctions

(1) Each employee of Special Counsel to whom returns or return information is or may be disclosed shall be notified in writing by Special Counsel that returns or return information disclosed to such Special Counsel or employee can be used only for the purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Special Counsel shall also notify each such employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the Special Counsel and employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each employee of any Special Counsel to whom returns or return information is or may be disclosed shall be notified in writing by such Special Counsel that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Special Counsel shall also notify each such employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

(3) Additionally, it is incumbent upon Special Counsel to inform his/her employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to Special Counsel as contractors of the Ohio Attorney General by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which

contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(4) Granting Special Counsel access to FTTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Special Counsel must maintain his/her authorization to access FTTI through annual recertification. The initial certification and recertification must be documented and placed in the Attorney General's files for review. As part of the certification and at least annually afterwards, Special Counsel and Special Counsel's employees should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of *Publication 1075: Tax Information Security Guidelines For Federal, State and Local Agencies*) For both the initial certification and the annual certification, Special Counsel and Special Counsel's employees should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

Section 3 Inspection

Special Counsel shall comply with the requirements of the IRS Publication 1075, including all requirements referencing or related to, record retention and audit requirements to safeguard FTTI.

The IRS and the Attorney General's Office shall have the right to send its officers and employees into the offices and plants of Special Counsel for inspection of the facilities and operations provided for the performance of any work under this Agreement. This will include alternate worksites where FTTI is received, processed, stored, destroyed, or has been handled by any other means; this provision specifically includes private property held by the contractor if it allows its employees to establish an alternate work site within their property. On the basis of such inspection, specific measures may be required in cases where Special Counsel is found to be noncompliant with contract safeguards. On the basis of such inspection, specific measures may be required to remedy matters of non-compliance, in cases where the Special Counsel is found to be noncompliant with Retention Agreement safeguards or measures as defined by the IRS Office of Safeguards or the Attorney General's Office.

A background check must be performed, as required by IRS Publication 1075, on each of Special Counsel's employees or subcontractors that may be exposed to records provided by the Attorney General's Office. Results of the background checks shall be made available to the Attorney General, IRS or their designees upon request.

Special Counsel must provide staff, logs, records, systems access, and access to the facilities at its own expense to assist during each of the inspection/audits. Inspections/Audits may be performed by the Attorney General's Office, IRS or their designee at any time the Special Counsel is in possession of FTTI or during the subsequent years until all FTTI has been return or destroyed, the return or destruction have been reported to the Attorney General's Office, and the retention periods

for these records as defined in IRS publication 1075 have expired.

The undersigned represent they are authorized to enter into this Retention Agreement numbering nineteen (19) pages. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the parties evidence their intent to be bound hereto.

THE OHIO ATTORNEY GENERAL

SPECIAL COUNSEL

BY

SIGNATURE OF APPOINTED ATTORNEY

TITLE

PRINTED NAME OF APPOINTED ATTORNEY

DATE

DATE

ADDRESS

CITY/STATE/ZIP