

RETENTION AGREEMENT

WHEREAS, the Attorney General has determined that claims should be made against the Settling Defendants under the 1997 Mississippi Tobacco Litigation Settlement Agreement (Philip Morris USA Inc., R.J. Reynolds Tobacco Corporation, and ITG Inc.) relating to a recent change made in the calculation of the net operating profit adjustment due the State that has improperly reduced and threatens in the future improperly to reduce settlement payments to which the State is entitled (the "claims"); and

WHEREAS, the Attorney General has determined that the investigation, research, and litigation of the claims may require the expenditure of large sums of money and require the work of lawyers, paralegals, and others who are familiar with the operation of the Tobacco Litigation Settlement Agreement and the Settling Defendants' wrongful actions and/or inactions under that Agreement for an extended period of time; and,

WHEREAS, the Attorney General has further determined that it is in the best interest of the State and its citizens that the State retain attorneys with significant litigation experience in pursuing recoveries for the State in this specialized area; and

WHEREAS, Reeves & Mestayer, PLLC, Attorneys at Law (the "Law Firm"), are experienced in the area and have agreed to represent the State of Mississippi in association with the Attorney General and other counsel referred to below, respecting the claims and pursuant to the terms and conditions hereof.

IT IS, ACCORDINGLY, AGREED as follows:

1. The Office of the Attorney General hereby retains Reeves & Mestayer, Attorneys at Law, and its lawyers, who are hereby designated as Special Assistant

Attorneys General, to investigate, research, and prepare a motion or complaint seeking recovery on the claims for the Office of Attorney General to file in any appropriate Court or before any appropriate governmental agency.

2. The Attorney General does not relinquish his constitutional or statutory authority or responsibility through this Retention Agreement. The Attorney General has the sole authority to initiate or settle claims on behalf of the State of Mississippi and its citizens. The Attorney General shall cooperate with the Law Firm and use his best efforts to secure the cooperation of other State agencies. The Attorney General is not required to assign any member of his staff to pursue the claims, but may from time to time afford staff and other support services as the Attorney General deems appropriate. The Attorney General shall, however, designate one or more members of his staff to monitor the Law Firm's pursuit of these claims. The Law Firm shall keep the Attorney General and his designated staff member(s) fully informed on all material matters pertinent to the claims and any litigation arising therefrom; including whether and how to proceed with litigation, what relief to seek, and whether and on what terms to settle.

3. The Attorney General and the Law Firm both recognize that pursuit of the claims may present numerous factual and legal obstacles, and that no assurance of recovery on the claims has or can be made.

4. The Attorney General shall maintain responsibility for the public distribution of information concerning this matter. All press inquiries shall be referred to the Attorney General for comment and response.

5. Notwithstanding the potential difficulties, the Law Firm has agreed to represent the State, and the Attorney General hereby agrees that the Law Firm will be compensated for recoveries by the State of Mississippi on the following basis:

- A. The Law Firm will be entitled to compensation as specified in the attached Exhibit "A".
- B. All reasonable and necessary costs of litigation including, but not limited to, court costs, travel, witness fees, consultants, accounting, and expert fees and expenses, as shall be approved by the Attorney General, shall in the first instance be borne entirely by the Law Firm, but shall be reimbursed from any gross recoveries from the pursuit of the claims.
- C. The Law Firm and Attorney General anticipate that the State will request that the court that has continuing jurisdiction over the Tobacco Settlement award the State the attorneys' fees and costs incurred in pursuing the claims.
- D. The Law Firm shall receive no compensation or reimbursement other than as set out above. In the event that no recovery is realized, the Law Firm shall receive no compensation or reimbursement.

6. With approval of the Attorney General, the Law Firm may associate other attorneys at its own expense and at no cost to the State of Mississippi. The Attorney General understands that the Law Firm has agreed to associate as additional counsel Lee Young of Pascagoula, Mississippi, and Gary Wilson and Mark Greenwold, both of Washington, D.C. as additional counsel to pursue the claims and hereby approves such association. Notwithstanding such association of other attorneys, this Retention

Agreement is non-assignable and non-transferable, and the Law Firm's commitments are not delegable without the express, written approval of the Attorney General.

7. The Law Firm shall, from the date hereof until not less than four (4) years after this contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the providing of attorney services. In addition, the Law Firm shall maintain detailed contemporaneous time records for the attorneys and paralegals working on this matter in increments of not greater than one-tenth (1/10th) of an hour and shall promptly provide these records to the Attorney General upon request.

DATED, this the ____ day of June, 2019.

ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI

Jim Hood
BY: *Daryl Hill* ASSISTANT
Jim Hood, Attorney General ATTORNEY
General

REEVES & MESTAYER, PLLC

BY: *Mestayer*
Matthew G. Mestayer, Esquire

EXHIBIT "A"

Twenty-five percent (25%) of any recovery* up to Ten Million Dollars (\$10,000,000.00); plus

Twenty percent (20%) of any portion of such recovery between Ten Million Dollars (\$10,000,000.00) and Fifteen Million Dollars (\$15,000,000.00); plus

Fifteen percent (15%) of any portion of such recovery between Fifteen Million Dollars (\$15,000,000.00) and Twenty Million Dollars (\$20,000,000.00); plus

Ten percent (10%) of any portion of such recovery between Twenty Million Dollars (\$20,000,000.00) and Twenty-Five Million Dollars (\$25,000,000.00); plus

Five percent (5%) of any portion of such recovery exceeding Twenty-Five Million Dollars (\$25,000,000.00).

* "Recovery" for purposes of this Exhibit "A" shall mean damages, interest, attorneys' fees, and costs received by the State in litigation or settlement of the claims, as well as increased future receipts by the State of Settlement Payments due to injunctive or other relief secured by the State in any litigation or settlement of the claims, provided that in no event shall "recovery" include future receipts of in excess of \$10 million.

DETERMINATION OF NEED FOR CONTINGENCY FEE REPRESENTATION

The Attorney General has determined that the use of outside counsel is cost-effective, in the public interest and necessary to pursue claims against Phillip Morris USA, Inc., and others regarding the interpretation of and compliance with their Settlement Agreement with the State of Mississippi dated October 17, 1997. This specifically includes the assertion of economic claims on behalf of the State of Mississippi for the damages, costs, and attorneys' fees it has incurred from a breach of the Mississippi Tobacco Settlement Agreement with regard to the payment to the State of a share of the defendants' Net Operating Profits. Use of outside counsel is necessary because: there does not exist sufficient and appropriate legal and financial resources within the Attorney General's office to handle the matter; the time and labor required necessitates outside counsel; the novelty, complexity, and difficulty of the questions involved are within the expertise of outside counsel, who in fact possessed the knowledge necessary to discover the existence of the claims in the first instance, and the expertise necessary to perform the attorney services properly prevent our office from being able to efficiently conduct and perform this investigation and litigation in-house. The geographic area where the attorney services are to be provided is expansive because of the diverse locations outside of Mississippi of the likely defendants and anticipated witnesses. Outside counsel has the amount and type of experience necessary having pursued other claims arising out of defendants' failure to comply with their obligations under the Settlement Agreement.

Jim Hood
Attorney General



By: ASSISTANT ATTORNEY GENERAL

[Title]

RETENTION AGREEMENT

WHEREAS, the Attorney General has determined that claims should be made against certain persons and/or legal entities which are now or have previously been known as Brown and Williamson Tobacco Co. and R.J. Reynolds Tobacco Company (hereinafter referred to as “the Companies”), which have failed properly to report their cigarette shipments and profits, causing the State to fail to receive amounts to which it is entitled under a settlement agreements previously entered into in the cause of *In Re Jim Hood, Attorney General, ex rel. State of Mississippi Tobacco Litigation* (Cause No. 94-1429, Jackson County Chancery Court), and which have attempted wrongfully to deprive the State of Mississippi of settlement monies owed; and

WHEREAS, the Attorney General has estimated that the damages incurred by the State of Mississippi could total in excess of \$5,000,000.00 including applicable penalties, legal interest, attorneys’ fees, and costs, and that the State of Mississippi may be entitled to additional amounts including punitive damages on account of the unlawful nature of the Companies’ actions (all amounts to which the State is or may be entitled to recover on account of the actions of the Companies hereinafter being referred to as “the Claims”);

WHEREAS, the Attorney General has determined that the investigation, research, and litigation of the Claims will require the expenditure of large sums of money and may require the work of numerous lawyers, para-legals, accountants, and secretaries who are familiar with the defendants and their tortious and/or otherwise wrongful actions and/or inactions, and related issues for an extended period of time; and

WHEREAS, the Attorney General has further determined that it is in the best interests of the State and its citizens that the State retain attorneys experienced in the tobacco litigation and familiar with the settlements thereof; and,

WHEREAS, the below listed Law Firm is experienced in tobacco litigation and in this particular lawsuit, and has consented to represent the State of Mississippi, in association with the Attorney General, respecting the Claims and pursuant to the terms and conditions hereof.

IT IS, ACCORDINGLY, AGREED as follows:

1. The Office of the Attorney General hereby retains the Lee Young Law Firm and Matthew G. Mestayer, PLLC ("Law Firm"), and its principal members, Lee Young and Matthew G. Mestayer, are hereby designated as Special Assistant Attorney General to investigate, research and file the Claims in any appropriate Court or Courts or before any appropriate governmental agency. Each person designated as a Special Assistant Attorney General to pursue the Claims shall execute the Oath of Office in the form attached hereto and deliver the original of same to the Attorney General before entering upon their duties.

2. The Attorney General does not relinquish his constitutional or statutory authority or responsibility through this Retention Agreement. The Attorney General has the sole authority to settle this litigation on behalf of the State of Mississippi and its citizens. The Law Firm shall consult with the Attorney General and obtain his approval on all material matters pertinent to these Claims and any litigation arising therefrom, and the Attorney General shall cooperate with the Law Firm and use his best efforts to secure the cooperation of other State agencies. The Attorney General is not required, however, to assign any members of his staff to pursue the Claims, but may from time to time afford staff and other support services as the Attorney General deems appropriate. The Attorney General shall designate a member(s) of his staff to

monitor these Claims, and the Law Firm shall keep the Attorney General and his designated staff member(s) fully informed on all matters pertaining to the Claims.

3. The Attorney General shall maintain responsibility for the public distribution of information concerning this matter. All press inquiries shall be referred to the Attorney General for comment and response.

4. The Attorney General and the Law Firm both recognize that the Claims present numerous factual and legal obstacles, and that no assurance of success on the Claims has or can be made.

5. Notwithstanding the potential difficulties, the Law Firm has agreed to represent the State, and the Attorney General hereby agrees that the Law Firm will be compensated for its efforts, upon successful recovery, on the following basis:

A. Fee Agreements: Paid by Companies

The Law Firm asserts that any and all attorneys fees and expenses awarded in the successful recovery by the Law Firm should be paid by the Companies pursuant to the terms and conditions of the Court Orders and settlement agreements herein. As such, the Law Firm will request an award for attorneys fees and expenses from the Companies for any recovery received by the State as a result of this litigation. The Attorney General will support that request for an amount up to and including an amount equal to recognized bar rate percentages of any and all gross amounts received by the State in settlement or other resolution of the Claims. If the Law Firm is

successful in this regard, then the state shall pay no fees and expenses to the Law Firm.

In any event the Court should award should award the Law Firm an amount equal to 40% or less, but more than 25% of all gross amounts received by the State in settlement or other resolution of the Claims, the Law Firm shall be entitled to its legal fees as established by the Court with same being paid by the Companies.

In such an event, the Law Firm would not be entitled to any legal fees from the State.

In the event the Court should award the Law Firm no legal fees or an amount less than 25% of the gross amounts received by the State in settlement or other resolution of the Claims, then the State agrees to pay the Law Firm legal fees in addition to the amount awarded by the Court, equal to the difference between the amount awarded by the Court and the percentages assigned in Exhibit B Retention Agreement attached hereto, but not to exceed the percentages outlined Exhibit B Retention Agreement.

B. Fee Agreements: Paid by State

Exhibit A - Retention Agreement - Matter Settled Prior to Initiation of Litigation

Exhibit B - Retention Agreement - Matter Resolved After Initiation of Litigation

- C. All reasonable and necessary costs of litigation including, but not limited to, court costs, travel, witness fees, consultants, accounting, and expert fees and expenses shall be approved by the Attorney General, and shall initially be borne entirely by the Law Firm, but be reimbursed from any gross recoveries from the pursuit of such Claims unless such costs have been awarded by the Court as a component of attorneys fees;
- D. The Law Firm shall receive no compensation or reimbursement other than set out above. In the event that no recovery is realized, the undersigned attorneys shall receive no compensation or reimbursement.

The Law Firm shall receive no compensation or reimbursement other than set out above. In the event that no recovery is realized, the Law Firm shall receive no compensation, and will be responsible for any and all litigation expenses.

6. With the approval of the Attorney General, the Law Firm may associate other attorneys at its own expense and at no cost to the State of Mississippi. It is understood that the Law Firm has agreed to associate Gary Wilson and Mark Greenwold as counsel pursuant to this provision. Notwithstanding such association of other attorneys, this Retention Agreement is non-assignable and non-transferable, nor are the Law Firm's commitments delegable without the express, written approval of the Attorney General.

7. All records and files created, maintained or received by the Special Assistant in the performance of this contract shall be the property of the Attorney General. The Attorney General or his designee shall have the right to inspect and retrieve all such records belonging to the Attorney General, which are in the possession of the Firm. Upon the expiration or

termination of this contract, the Firm will immediately deliver all such records belonging to the Attorney General at its main office location.

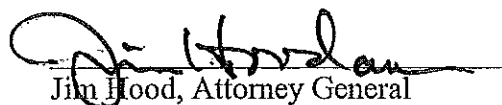
8. The Law Firm acknowledges and agrees that any and all information, documentary or otherwise, which is disclosed to the Firm and any and all associated attorneys and staff in the course of performing the duties specified herein, is confidential or privileged by law or rule of court, shall not be disclosed to any other party without the express written consent of the Attorney General and may not be used in any manner whatsoever by the Firm and any and all associated attorneys and staff other than in performing the services specified herein. Firm agrees to obtain confidentiality agreements from any and all employees and agent of the Firm, and any and all associated attorneys and staff.

9. The Attorney General or his duly authorized representative may terminate this contract at any time, with or without cause, by giving written notice to the Firm of such termination. Such termination by the Attorney General may, at his sole discretion, be effective immediately or at such date as he determines. The Law Firm may terminate this agreement, with or without cause, by giving at least ten days' written notice to the Attorney General.

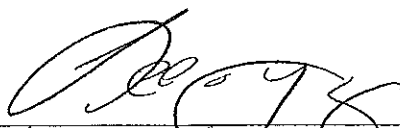
10. Obligations of confidentiality and obligations to deliver records to the Attorney General survive termination or expiration of this contract.

DATED this 1 day of October, 2009.

**ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI**

By: 
Jim Hood, Attorney General

LEE YOUNG LAW FIRM

By: 
LEE E. YOUNG

MATTHEW G. MESTAYER, PLLC
By: 