



**KIRSH & KIRSH, P.C.**  
**FEE AGREEMENT**  
(Revised: November 2021)

**Preamble**

This Fee Agreement takes into account the uniqueness of the practice of adoption law and the extensive experience of Kirsh & Kirsh, P.C. (“Kirsh & Kirsh”) in handling adoptions. Adoptions, unlike most other areas of law, not only involve legal issues but fundamental parental rights and needs. Human beings have an instinctual want, need, and desire to be parents and pass on their legacies. Likewise, courts have universally recognized the sanctity of the parent-child relationship and, therefore, require that any legal action to terminate that relationship, including adoption and/or termination of parental rights (“TPR”) proceedings, must strictly comply with law. Lawyers charge for their services in a variety of ways. This Preamble will briefly address these issues. Kirsh & Kirsh encourages, and in some places, requires, prospective adoptive parent(s) to have this Fee Agreement reviewed by separate, independent legal counsel before signing it.

Many lawyers charge fees based upon an hourly rate, expect payment regardless of outcome, and make themselves available only during regular business hours. Kirsh & Kirsh is available 24/7/365, including all national and religious holidays. Based upon the knowledge, experience spanning in excess of 35 years, national reputation, and availability of Kirsh & Kirsh, as well as the complexity, intense emotions, and stakes involved in adoption and TPR proceedings, if Kirsh & Kirsh charged for its services on an hourly basis, \$650 per hour or more would be commensurate with what other attorneys experienced in their fields would charge. When legal services must be completed on an expedited basis and/or in a shortened time frame, many such attorneys charge an even higher hourly rate. However, Kirsh & Kirsh prefers to charge a flat fee for its services, payable upon certain benchmarks as outlined in this Fee Agreement. Among other things, this manner of billing enables prospective adoptive parent(s) to know precisely the amount of attorney fees, giving them the opportunity to determine, prior to engaging the services of Kirsh & Kirsh, if the attorney fees of Kirsh & Kirsh are within their budget. Additionally, most prospective adoptive parent(s) appreciate(s) the comfort of knowing that they may ask questions of Kirsh & Kirsh when those questions arise without having to worry about incurring an additional charge for each communication with Kirsh & Kirsh.

However, if Client(s) prefer(s) to pay for the legal services of Kirsh & Kirsh on an hourly or per diem basis, rather as outlined in this Fee Agreement, Client(s) should communicate that to Kirsh & Kirsh, in writing, prior to signing this Fee Agreement, and Kirsh & Kirsh will provide to Client(s) an alternate billing arrangement, under which Client(s) pay(s) the legal fees of Kirsh &

Kirsh without regard to the benchmarks or outcomes outlined in this Fee Agreement.

**Client(s) Initials:** \_\_\_\_\_

This Fee Agreement provides that the bulk of attorney fees charged under this Fee Agreement contemplate a successful adoption are not payable if that outcome is not achieved. Furthermore, this Fee Agreement provides for Client(s) to pay attorney fees (as opposed to expenses) only once even if Kirsh & Kirsh pursues multiple adoption opportunities for Client(s).

However, as previously stated, if Client(s) prefer(s) to pay for the legal services of Kirsh & Kirsh, on an hourly or per diem basis, without regard to a successful adoption, Client(s) should so inform Kirsh & Kirsh, in order that alternative billing arrangements can be made.

### **Terms and Conditions**

The undersigned Client(s) engage(s) the services of Kirsh & Kirsh under the following terms and conditions:

1. **Initial Payment.**

- a. After the initial consultation, if Client(s) choose(s) to engage the services of Kirsh & Kirsh, then Client(s) shall pay the amounts in the following subparagraphs.
- b. Upon signing this Fee Agreement, Client(s) shall pay to Kirsh & Kirsh the sum of \$2,000, as payment for services of Kirsh & Kirsh in initially consulting with Client(s) to answer initial and subsequent questions of Client(s), meet with Client(s) to explain adoption procedure, and for such things, when appropriate, possible, and as needed, in the judgment of Kirsh & Kirsh, as being available to pursue adoption opportunities on behalf of Client(s), and actually pursuing adoption opportunities on behalf of Client(s). This amount shall be deemed fully earned upon payment. If the attorney-client relationship created under this Fee Agreement ends prior to Kirsh & Kirsh pursuing at least one adoption opportunity for Client(s), Kirsh & Kirsh will refund up to \$1,000 to Client(s).
- c. Upon signing this Fee Agreement, Client(s) shall pay to Kirsh & Kirsh the sum of \$250, as a **non-refundable** expense payment, to cover miscellaneous, non-itemized, pre-placement expenses which Kirsh & Kirsh may incur on behalf of Client(s) prior to the filing of the petition for adoption for such things as Federal Express, express mail, postage, long distance, fax, and courier charges.

- d. The initial payment under paragraph 1(b) shall be applied to the final attorney fees specified in paragraph 3(a) of this Fee Agreement.

Client(s) Initials: \_\_\_\_\_

2. **Preliminary Attorney Fees.**

- a. If an expectant mother indicates that she would like Client(s) to be the adoptive parent(s) and if Client(s) would like to pursue the opportunity to adopt the child, then Client(s) shall pay to Kirsh & Kirsh an additional sum of \$5,000, as preliminary attorney fees. These preliminary attorney fees shall be for legal services rendered in making arrangements in anticipation of an adoption, and for such things, when appropriate, possible, and as needed, in the judgment of Kirsh & Kirsh, as meeting with the expectant mother, making financial arrangements with her doctor and hospital for the delivery of the baby, making arrangements for the expectant mother to see a counselor, being available to answer questions raised by the expectant mother, and providing legal counsel to Client(s) prior to the birth of the child. These preliminary attorney fees shall be deemed fully earned when Client(s) agree(s) to be matched with at least one expectant mother and Kirsh & Kirsh has begun making the arrangements for Client(s) to adopt that expectant mother's child. If attorney-client relationship created under this Fee Agreement ends after the match but prior to when Kirsh & Kirsh has begun making the arrangements for the adoption, Kirsh & Kirsh will refund up to \$2,000 to Client(s). If Client(s) do not file a petition for adoption in relation to that match, the preliminary fees will be applied to all subsequent matches as provided in paragraph 2(c) but shall be deemed fully earned as a result of the efforts of Kirsh & Kirsh with regard to the initial match.
- b. The preliminary attorney fees shall be applied to the final attorney fees specified in paragraph 3(a) of this Fee Agreement.
- c. **Client(s) shall only be responsible for paying the preliminary attorney fees once prior to the placement of a child for adoption with Client(s).** In other words, if Client(s) have paid the preliminary fees for an adoption opportunity that does not result in the placement of a child for adoption with Client(s), Client(s) shall ***not*** be responsible for paying preliminary attorney fees for any subsequent adoption opportunities which might arise.

3. **Final Attorney Fees and Non-Itemized, Post-Placement Expenses.**

- a. Upon the signing of a consent to adoption or a consent to the termination of parental rights by the birth mother, Client(s) shall pay to Kirsh & Kirsh final attorney fees in the amount of \$17,500, less the initial payment paid pursuant to Paragraph 1(b), and less the preliminary attorney fees paid pursuant to paragraph 2(a) of this Fee Agreement, for a total additional payment of \$10,500. These final attorney fees shall be for legal services rendered in making the final arrangements for the adoption, and for such things, when appropriate, possible, and as needed, in the judgment of Kirsh & Kirsh, as obtaining the birth mother's consent to the adoption, locating the birth father and determining his position with regard to the adoption, attempting to obtain the cooperation of the birth father, preparing and filing of all court documents, obtaining an initial court order granting Client(s) custody of the child, having the child discharged from the hospital to the adoptive parents, sending disbursement checks for the payment of living and medical expenses to, or on behalf of, the birth mother **[Kirsh & Kirsh is not funding the payment of these expenses, but rather preparing and sending the checks. Client(s) is/are responsible for funding the expenditures, in addition to paying the fees and expenses of Kirsh & Kirsh]**, accounting to Client(s) for the distribution of trust funds, setting the final adoption hearing, appearing with and for Client(s) at the final adoption hearing, and obtaining a birth certificate for the child. These final attorney fees shall be deemed fully earned upon the signing of a consent to adoption or a consent to the termination of parental rights by the birth mother.
- b. Upon the signing of a consent to adoption or a consent to the termination of parental rights by the birth mother, Client(s) shall pay to Kirsh & Kirsh the sum of \$250, as a ***non-refundable*** expense payment, for miscellaneous, non-itemized, post-placement expenses which Kirsh & Kirsh may incur on behalf of Client(s) for such things as Federal Express, express mail, long distance, fax, and courier charges.
- c. These final attorney fees shall not be subject to increase for a period of one (1) year from the date of this Fee Agreement. Thereafter, the final attorney fees shall be equal to the final attorney fees then being quoted by Kirsh & Kirsh to new clients in fee arrangements similar to this Fee Agreement at the time of the placement of a child for adoption with Client(s).
- d. In the event compliance with the Indian Child Welfare Act ("ICWA") is required, the Client(s) shall pay additional attorney fees to Kirsh & Kirsh in the amount of \$2,500, which fees shall be deemed fully earned when Kirsh

& Kirsh begins preparing the additional documentation required for ICWA compliance. If the ICWA hearing does not take place, Kirsh & Kirsh will refund up to \$1,000 of the additional fees. Compliance with ICWA usually requires the initiation of an action in Indiana to terminate parental rights, which necessitates the involvement of an adoption agency in Indiana. Kirsh & Kirsh will coordinate arrangements with the agency. The fees charged by the agency are generally between \$3,500 and \$4,000, plus the fees of an attorney to represent the agency and the fees to represent the birth parent(s), which are approximately \$500 each. Those fees are due and payable to the Indiana adoption agency upon the filing of the petition for termination of parental rights and are in addition to the fees and expenses paid to Kirsh & Kirsh pursuant to this Fee Agreement. If ICWA is an issue, Kirsh & Kirsh will explain the process to Client(s) before Client(s) incur the obligation to pay the amounts specified in this subparagraph.

**Client(s) Initials:** \_\_\_\_\_

4. **Contested Adoption.**

In the unlikely event of a contested adoption, Client(s) shall be responsible for paying the fees and expenses in the defense of the adoption, in addition to the fees and expenses outlined in this Fee Agreement, and payment by Client(s) of the fees and expenses in defense of the adoption shall not reduce the obligation of Client(s) to pay the fees and expenses of Kirsh & Kirsh as set forth in this Fee Agreement.

**Client(s) Initials:** \_\_\_\_\_

5. **Expenses.**

- a. In addition to the payments for non-itemized expenses, made by Client(s) under paragraphs 1(c) and 3(b) of this Fee Agreement, fees payable pursuant to an Adoption Services Agreement, if any, and the attorney fees payable under this Fee Agreement,
  - i. Client(s) shall also be responsible for payment of the itemized, expenses of Kirsh & Kirsh for such items as out-of-the-office meeting fees (as described below), court costs, board of health fees, fees for having the alleged father served with notice of the adoption, medical records, putative father registry searches, publication costs, and etc.

- ii. For birth mothers whom Kirsh & Kirsh meets and other meetings more than 25 miles from the offices of Kirsh & Kirsh at 2930 E. 96<sup>th</sup> Street, in Indianapolis, Indiana, Client(s) shall pay Kirsh & Kirsh an out-of-the-office meeting fee of \$650 for each such meeting<sup>1</sup>, regardless of whether Kirsh & Kirsh drives or flies to the meeting and any other stops, or meetings, or both, Kirsh & Kirsh might make while out of the office.
- iii. Client(s) shall be responsible for the payment of birth parent('s)(s') attorney's fees relating to the adoption<sup>2</sup> and counseling expenses, as well as any other expenses which Client(s) agree(s) to pay or reimburse to, or on behalf of, the birth mother. Client(s)'s obligation for a birth parent('s)(s') counseling expenses is usually not more \$2,500, plus the counselor's travel expenses. In many cases, Client(s) will be asked to make payment arrangements for counseling expenses directly with the counselor. In that event, Kirsh & Kirsh would assist in making counseling arrangements for the birth parent(s) and then put Client(s) in contact with the counselor to make payment arrangements.
- iv. Client(s) shall be responsible for paying the birth mother's medical expenses and the child's medical expenses without regard to any Medicaid or private insurance coverage which might be available. In other words, even if the birth mother has insurance or Medicaid, Client(s) should assume that they will be responsible for the full amount of the medical expenses without regard to Medicaid or private insurance. Generally, if Medicaid or private insurance is available, it will pay some, if not all, of the medical expenses. However, the birth mother does not have any obligation to apply for, or maintain in effect, Medicaid, or private insurance coverage. If, for any reason, Medicaid or private insurance does not pay the medical expenses, Client(s) shall be responsible for them if they assume custody of the child. This Fee Agreement does not include services necessary to qualify a birth mother for Medicaid. Those services are beyond the scope of this Fee Agreement. If Client(s) would like a referral of a company that will assist the birth mother

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<sup>1</sup> Most adoptions involve 2 meetings with the birth mother. The first meeting is when Kirsh & Kirsh initially meets with the birth mother, and the second meeting is for the consent signing. Rarely, are there more than 2 meetings with the birth mother.

<sup>2</sup> In most cases, this amount will be \$750, or less. If the birth parent('s)(s') attorney fees will be greater than \$750, Kirsh & Kirsh will inform Client(s) of the amount before Client(s) become(s) obligated to pay birth parent attorney fees greater than \$750.

in attempting to obtain Medicaid coverage, Kirsh & Kirsh will make a referral. The fees charged by companies which assist with Medicaid applications is typically less than \$550 and usually only payable if Medicaid is successfully obtained. **Kirsh & Kirsh strongly recommend using one of the outside companies to assist a mother obtain Medicaid coverage for herself and the child. In most cases, the cost of utilizing these services is a small fraction of the actual medical expenses, and the companies Kirsh & Kirsh recommends only charge a fee, if they successfully obtain Medicaid coverage.**

- v. Client(s) shall be responsible for paying the birth mother's living expenses. Client(s) should assume that the birth mother will receive the statutory maximum allowable living expenses, in the amount of \$4,000. In most cases, approximately \$2,000 is paid prior to the birth. That amount is typically divided by the number of months left in the pregnancy and disbursed on a monthly basis. Any living expenses given to a birth mother prior to the birth of the child are monies Client(s) is/are putting at risk if Client(s) do(es) not adopt the child. Client(s) hereby authorize(s) Kirsh & Kirsh to disburse living expenses which Client(s) have given to Kirsh & Kirsh for the birth mother without specific authorization for each disbursement.
- vi. If Client(s) live outside of Indiana and opt to finalize the adoption in their state of residence, rather than in Indiana<sup>3</sup>, Client(s) should assume that they will also incur the cost of a termination of parental rights proceeding in Indiana. The additional cost is approximately \$4,500, payable after the child is born, and only if birth mother signs a consent to the termination of her parental rights. None of this amount is for services rendered by Kirsh & Kirsh. Approximately \$4,000 is payable to the licensed, child-placing agency which will act as the petitioner in the termination action, and \$500 is payable to the attorney representing the agency. In many cases, Client(s) will be asked to make payment arrangements for termination fees directly with the licensed, child-placing agency. In that event, Kirsh & Kirsh would make arrangements for the termination action and then put Client(s) in contact with the licensed, child-placing agency to make payment arrangements.

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<sup>3</sup> As of July 1, 2021, non-residents of Indiana may file adoption proceedings in Indiana for a newborn born in Indiana or a child living in Indiana.

- vii. Client(s) shall be responsible for contracting with, and paying the fees of Child Connect ([www.childconnect.com](http://www.childconnect.com)). For a one-time fee of approximately \$700, Client(s) will be able to upload their post placement birth parent(s) updates to the Child Connect website. Child Connect will not only provide the birth parent(s) a secure access to the updates but will also print and mail to the birth parent(s) a hard copy of the updates. Client(s) authorize Kirsh & Kirsh to share identifying information with Child Connect in order for Child Connect to create an account for Client(s) and for Child Connect to facilitate the exchange of updates between Client(s) and the birth parent(s) of the child Client(s) adopt(s). In giving this authorization, Client(s) freely, voluntarily, and knowingly waive(s) the attorney-client privilege to which Client(s) would otherwise be entitled and gives informed consent to disclosure of information relating to the representation of Client(s). By initialing below this subparagraph, Client(s) confirm(s) that Client(s) possess(es) the information reasonably adequate to (1) understand why it would be necessary for Kirsh & Kirsh to discuss the adoption proceedings with the above-referenced persons and (2) give informed consent to the disclosure of what might be information subject to the attorney-client privilege, or confidential information relating to the representation of Client(s), or both.

**Client(s) Initials:** \_\_\_\_\_

- b. Prior to the birth of a child, expenses shall be billed as they are incurred and payable by Client(s) within ten (10) days of billing by Kirsh & Kirsh.
- c. Upon the signing of a consent to adoption or a consent to the termination of parental rights by the birth mother, Client(s) shall provide Kirsh & Kirsh, with the amount which Kirsh & Kirsh estimates is necessary to fully pay all fees and expenses under this Fee Agreement, unless other payment arrangements satisfactory to Kirsh & Kirsh have been made. Expenses, incurred or anticipated, in excess of the estimate provided by Kirsh & Kirsh, at the time of placement, will be billed to Client(s) and shall be payable within ten (10) days of billing by Kirsh & Kirsh.
- d. Unpaid fees and expenses shall begin accruing interest at the rate of eight percent (8%) per annum ten (10) days after they are due and payable. Client(s) shall pay the accrued interest. No interest will be charged to accounts paid within ten (10) days of when they are due and payable.



- e. Client(s) should not agree to pay or reimburse any expenses for, or on behalf of, a birth mother or birth father other than medical and counseling fees without first consulting with Kirsh & Kirsh. **Unauthorized payments could be construed as a felony crime in Indiana and could jeopardize the adoption.**
- f. Upon request from Kirsh & Kirsh, and from time to time as determined by Kirsh & Kirsh, Client(s) shall deposit with Kirsh & Kirsh funds for Kirsh & Kirsh to use to pay the various expenses referred to in this Fee Agreement. Client(s) hereby authorize(s) Kirsh & Kirsh to disburse those funds on behalf of Client(s) as, in the sole discretion of Kirsh & Kirsh, Kirsh & Kirsh deems appropriate, without receiving specific authorization from Client(s) for each disbursement. Upon request, Kirsh & Kirsh shall provide to Client(s) a detailed accounting of all monies received and disbursed on behalf of Client(s).
- g. Client(s) is/are responsible for the payment of expenses incurred by Kirsh & Kirsh (as opposed to Kirsh & Kirsh attorney fees) in pursuing a possible opportunity for Client(s) to adopt regardless of whether or not that adoption opportunity results in an adoptive placement.

6. **General.** Client(s) understand(s) and agree(s) that:

- a. If Client(s) reside(s) outside the State of Indiana, it is the responsibility of Client(s):
  - i. To confirm with an independent attorney in the home state of Client(s) that the terms of this Fee Agreement do not violate the laws of that state, and
  - ii. To make sure that their home study, including criminal and child-abuse checks, are current within one (1) year of the date of birth of the child whom Client(s) adopt(s). Failure to maintain a current home study may result in a significant delay in the Interstate Compact on the Placement of Children (“ICPC”) approval process. The Indiana ICPC Office requires that the home study, including criminal, child abuse, sex-offender, and FBI checks, be current within one (1) year of the birth of the child even if the ICPC office in the receiving state would accept a home study and other checks of longer duration.
- b. The final hearing on the adoption will **not** take place until all:

- i. Attorney fees and expenses have been paid in full to Kirsh & Kirsh,
  - ii. Medical expenses have been paid to the medical providers, or Client(s) have made satisfactory arrangements with the medical providers for the payment of medical expenses and have provided Kirsh & Kirsh written confirmation from the medical providers of those arrangements,
  - iii. Counseling, home study, and other adoption agency and attorney fees, if any, have been paid,
  - iv. Birth mother living expenses, if any, have been paid or monies escrowed with Kirsh & Kirsh for payment to the birth mother,
  - v. Birth parent('s)(s') attorney fees have been paid,
  - vi. Attorney and agency fees in the sending state, if any, have been paid, and
  - vii. Client(s) have provided to the birth parent(s) all updates due to have been delivered by the time of the final hearing on the adoption.
- c. Kirsh & Kirsh reserves the right to withdraw from representing Client(s), for reasons including, but not limited to, the following: if actions taken by Client(s), requested by Client(s), not taken by Client(s) or Client(s)'(s) position places the child "at risk", regardless of whether that risk is legal, financial, physical or emotional. Client(s) understand that "at risk" may be a subjective determination made by Kirsh & Kirsh. Client(s) understand(s) that this right of Kirsh & Kirsh to withdraw includes the right to withdraw if Client(s) are not approved for adoptive placement by a licensed social worker or licensed child-placing agency. Client(s) shall be entitled to a refund of unearned fees or expenses if Kirsh & Kirsh withdraw from representation.
- d. Client(s) understand(s) and agree(s) that Kirsh & Kirsh may report any known or suspected child neglect or abuse to the proper authorities. Client(s) specifically release(s) Kirsh & Kirsh from any liability or claims of privilege in the event Kirsh & Kirsh makes a report pursuant to this subparagraph. In giving this authorization, Client(s) freely, voluntarily, and knowingly waive the attorney-client privilege to which Client(s) would otherwise be entitled and gives informed consent to disclosure of

confidential information relating to the representation of Client(s). By initialing below this subparagraph, Client(s) confirm that Client(s) possess(es) the information reasonably adequate to (1) understand why it would be necessary for Kirsh & Kirsh to make such a report and (2) give informed consent to the disclosure of what might be information subject to the attorney-client privilege or confidential information relating to the representation of Client(s), or both.

**Client(s) Initials:** \_\_\_\_\_

- e. Client(s) hereby authorize(s) Kirsh & Kirsh to discuss all aspects of Client('s)(s') adoption proceedings, both before and after finalization of an adoption, with Client('s)(s') home study and/or supervising agency or agencies, and Client('s)(s') adoption counselors and adoption social workers. In giving this authorization, Client(s) freely, voluntarily, and knowingly waive the attorney-client privilege to which Client(s) would otherwise be entitled and gives informed consent to disclosure of confidential information relating to the representation of Client(s). By initialing below this subparagraph, Client(s) confirm(s) that Client(s) possess(es) the information reasonably adequate to (1) understand why it would be necessary for Kirsh & Kirsh to discuss the adoption proceedings with the above-referenced persons and (2) give informed consent to the disclosure of what might be confidential information relating to the representation of Client(s).

**Client(s) Initials:** \_\_\_\_\_

7. **“Surprise” Baby Situations.** Client(s) should indicate if Client(s) would like to be considered for a “Surprise Baby”. Typically, a “Surprise Baby” is a situation in which Kirsh & Kirsh, P.C., is first informed, after the baby is born, that the birth mother is interested in pursuing an adoption plan for her baby. In these situations, Kirsh & Kirsh, P.C., must complete arrangements for the adoption, including finding a family to adopt, in a matter of a few hours or less. Surprise Baby situations can be hard on Client(s) because they require quick decision making, in a highly emotional setting, without much information other than an indication of the general health of the baby. In order to be considered for a Surprise Baby, Client(s) must be prepared to:
- a. Commit or pass on the situation without obtaining any medical records or background information for the birth mother or baby, other than very general information such as the race and general health of the baby. Kirsh & Kirsh, P.C., will attempt to obtain the same type of information

obtained in non-surprise baby situations and eventually provide that information to Client(s), but that information may not be available until weeks after placement of the child into Client('s)(s') home and certainly will NOT be available prior to the time in which Client(s) will need to either commit or pass on the opportunity to adopt.

- b. Commit or pass on the situation within the time frame presented by Kirsh & Kirsh, P.C., at the time the situation is presented. This could require making a decision within hours or even minutes of the initial contact of Client(s) by Kirsh & Kirsh, P.C.
- c. Submit payment in full of all amounts and expenses to Kirsh & Kirsh, P.C., upon the baby's discharge from the hospital. In non-surprise baby situations, Client(s) may have weeks, if not months, to get their finances in order for an upcoming, possible adoption. This is not true with a "Surprise Baby".

Client(s) would like to be considered for a "Surprise Baby".

Client(s) Initials: \_\_\_\_\_

8. **Limitation of Liability.** Unlike many other areas of the law, adoptions are highly emotional – they have the potential for great excitement and joy and also devastating loss and disappointment. Kirsh & Kirsh tries to practice adoption law to the highest standards of ethics and competence; however, adoptions are often unpredictable, information incomplete or inaccurate, and individuals fickle. In spite of the efforts of Kirsh & Kirsh to practice adoption law to the highest standards of ethics and competence, mistakes happen and/or situations do not turn out as hoped or expected. When those events happen, Client(s) may be inclined to make a claim against Kirsh & Kirsh for compensation for their losses. Those losses usually fall into two categories: (1) actual, out-of-pocket expenses ("Actual Damages") and (2) mental injury, emotional distress, mental anguish, disappointment, pain and suffering, and the like ("Intangible Damages"). Client(s) freely, knowingly, and voluntarily waive all claims against Kirsh & Kirsh for Intangible Damages and all other forms of loss other than Actual Damages. This waiver of liability for Intangible Damages and other losses is referred to as the "Limitation of Liability Provision".

Limitation of liability provisions in attorney-client contracts are not permitted in Indiana except when clients have received the benefit of independent legal counsel. Since Kirsh & Kirsh is a party to this Fee Agreement and the Limitation of Liability Provision is for the direct benefit of Kirsh & Kirsh, Kirsh & Kirsh is

not independent and cannot provide advice to Client(s) as to the legal consequences of this Limitation of Liability Provision.

Client(s) acknowledge(s), agree(s), and understand(s) that Client(s) must consult with independent legal counsel to acquire a full and complete understanding of the restrictions, limitations, and nuances of agreeing to this Limitation of Liability Provision. Having consulted with independent legal counsel, by signing in the blank following this Limitation of Liability Provision, Client(s) confirm(s) that Client(s):

1. have/has, in fact, consulted independent legal counsel in regard to this Limitation of Liability Provision,
2. acknowledge(s) that Kirsh & Kirsh has agreed to represent Client(s) and include this Limitation of Liability Provision in this Fee Agreement in reliance on the confirmation contained in the immediately preceding paragraph, and
3. agree(s) to be bound by this Limitation of Liability Provision.

\_\_\_\_\_  
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 "Client(s)"

9. **Adoption Subsidies.** In the adoption of children with significant medical problems, federal and state adoption subsidies are sometimes available. However, making the determination of eligibility and applying for an adoption subsidy, if available, are beyond the scope of services offered by Kirsh & Kirsh under this Fee Agreement. Client(s) would need to engage other counsel to make that determination and application. Furthermore, if obtaining an adoption subsidy is a requirement of Client(s), Client(s) should not engage the services of Kirsh & Kirsh, without simultaneously engaging the services of other counsel able to make the determination of eligibility and application.

**Client(s) Initials:** \_\_\_\_\_

10. **Miscellaneous.**

- a. Client(s) acknowledge(s) that the provisions of this Fee Agreement contain the entire agreement with Kirsh & Kirsh and that any modifications or changes to this Fee Agreement must be in writing and signed by Kirsh & Kirsh.
- b. No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.
- c. If any provision of this Fee Agreement shall be invalid or unenforceable, the remainder of this Fee Agreement shall not be affected and each provision of the remainder of the Fee Agreement shall be valid and be enforceable to the fullest extent permitted by law.
- d. This Fee Agreement shall be interpreted in accordance with the laws of the State of Indiana.
- e. Client(s) consent(s) to the jurisdiction of the Indiana courts and venue of Hamilton County, Indiana, to resolve any claim or alleged breach under this Fee Agreement.
- f. Kirsh & Kirsh makes no warranties or representations, express or implied, about the information which Kirsh & Kirsh provides to Client(s) about the background of the biological parents or the health of the child being adopted, except that Kirsh & Kirsh will accurately share with Client(s) the information which has been provided to Kirsh & Kirsh. Client(s) acknowledge(s) and understand(s) that Kirsh & Kirsh does not independently verify any of the information which Kirsh & Kirsh gathers about the birth mother, birth father, or the child, but rather only reports to Client(s) information provided to Kirsh & Kirsh.
- g. Client(s) understands that when Kirsh & Kirsh supplies background information and medical records to Client(s), with or without comment to Client(s), Client(s) should **NOT** conclude that there are no problems/issues, or other problems/issues, contained in the information and records. Client(s) acknowledge(s) and agree(s) that it is their sole responsibility to review, or to hire medical or other professionals to review the background information and medical records provided to Client(s) and that Client(s) have the obligation to determine what additional information and records they would like to have and to communicate that

determination to Kirsh & Kirsh. Kirsh & Kirsh will then advise Client(s) whether such information and records can reasonably be obtained. Client(s) further acknowledge(s) that the decision to adopt a child is based upon less than full or perfect information and records.

**Client(s) Initials:** \_\_\_\_\_

- h. Client(s) failure to initial any of the places calling for Client('s)(s') initials does not, in any way, abrogate Client('s)(s') obligations under this Fee Agreement. Kirsh & Kirsh has added the place for initials in hopes that Client(s) will carefully read this Fee Agreement. Kirsh & Kirsh encourages Client(s) to ask questions if they do not fully understand any part of this Fee Agreement.
  - i. The term "birth mother" is defined to include an "expectant mother". Those terms are used interchangeably.
11. **Binding Effect.** Kirsh & Kirsh has provided this written Fee Agreement in hopes of avoiding any misunderstanding regarding the payment of fees and expenses. Kirsh & Kirsh would like to receive a copy of this Fee Agreement signed by Client(s). **However, whether or not Kirsh & Kirsh receives the signed copy, Client(s) shall be bound by the terms and conditions of this Fee Agreement if Kirsh & Kirsh begins making the arrangements for the adoption unless Kirsh & Kirsh has agreed, in writing, to a different fee structure.**
12. **Representation Conclusion.** Except as otherwise provided in this Fee Agreement, the scope of representation of Kirsh & Kirsh includes providing to Client(s) legal services in Indiana relating to the adoption, up to, and including, the finalization of the adoption. Representation of Client(s) ends upon the entry of a final decree of adoption. Notwithstanding the foregoing, as deemed appropriate, in the sole discretion of Kirsh & Kirsh, Kirsh & Kirsh may continue to provide advice and counsel to Client(s) on matters relating to the adoption after the entry of final decree. Client(s) understand(s) and agree(s) that providing advice and counsel on an adoption related matter after the entry to the final decree of adoption does not obligate Kirsh & Kirsh to provide advice and counsel on all

adoption related matters in perpetuity.

DATED: \_\_\_\_\_

**CLIENT(S):**

\_\_\_\_\_

\_\_\_\_\_

**To what email address(es) would you like invoices sent:**

EMAIL: \_\_\_\_\_

EMAIL: \_\_\_\_\_