

STATE OF MISSISSIPPI
COUNTY OF LEE

HOLD HARMLESS AND INDEMNITY AGREEMENT

This hold harmless and indemnity agreement (this “Agreement”) is made effective on _____, _____, 2024 by and between the City of Tupelo, Mississippi (hereinafter “City”) and Tombigbee Electric Power Association and Tombigbee Fiber, LLC. (hereinafter “Business”); and

WHEREAS, the Business desires to hire off-duty police officers employed by the City to perform private security functions in accordance with the provisions of Miss. Code Ann. § 17-25-11 (1972, as amended); and

WHEREAS, the Business acknowledges and agrees that any City police officer performing private security services for the Business shall be deemed to be acting under an independent contractual service agreement for the Business; and

WHEREAS, the Business desires to hold harmless and indemnify the City from any claims and/or litigation arising from employment of any police officer performing private security services; and

WHEREAS, the proposed employment of Police Officers by the Business is not likely to bring disrepute to the City or its law enforcement agency, the officer at issue, or law enforcement generally, and that the use of the official uniform and/or weapon in the discharge of the officer's private security endeavor promotes the public interest.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Business and the City hereby agree as follows:

TERMS:

1. **Hold Harmless and Indemnification.** Acts and omissions of an officer in discharge of private security employment shall be deemed to be the acts and omissions of the person or entity who hires or enters into any independent contractual service agreement with an officer for the private security services, and not the acts and omissions of the employing jurisdiction whose uniform, weapon and vehicle are approved for the private security use. The Business employing the officer for private security purposes shall hold harmless the City and fully indemnify the City for any expense or loss, including attorney’s fees, which results from any action taken against the City arising out of the acts or omissions of the officer in discharge of private security services while wearing the official uniform or using the official weapon of the City. The Business agrees the City shall not be liable for acts or omissions of an officer in the discharge of the private security employment duties for the Business.

2. **Authority to Enter Agreement.** Each Party warrants that the individuals who have signed this Agreement have the actual legal power, right, and authority to make this Agreement and bind each respective party.

3. **Amendment; Modification.** No supplement, modification, or amendment of this agreement shall be binding unless executed in writing by the parties.

4. **Waiver.** No waiver of any default by the City shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition.

5. **Insurance Coverage:** Business will provide general liability insurance coverage naming the City as a named insurance for no less than the amount of recovery provided for by Miss. Code Anno. §11-46-15 (1972 as amended), and applicable insurance for any City police officer providing approved private security services for the Business.

6. **Compensation:** Business shall be solely responsible for the payment of any wage or compensation owed to any police officer performing private security for or on behalf of the Business, and any such compensation shall be paid pursuant to those terms that may be agreed upon by the Business and the police officer. Any police officer performing services in accordance with this agreement shall be compensated by Business in an amount not less than \$40.26 per hour.

7. **Reimbursement:** Business shall reimburse the City for all costs associated with the use of City equipment in accordance with this agreement, including the use of vehicles. Such reimbursement shall be at a rate of \$22.91 per hour per vehicle used.

8. **Entire Agreement.** This Agreement contains the entire agreement between the Parties related to the matters specified herein, and supersedes any prior oral or written statements or agreements between the Parties related to such matters.

9. **Enforceability, Severability, and Reformation.** If any provisions of this Agreement shall be held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited. In the event any aspect of this Agreement is deemed unenforceable, the court is empowered to modify this Agreement to give the broadest possible interpretation permitted under Mississippi law.

10. **Applicable Law.** This Agreement shall be governed exclusively by the laws of the State of Mississippi, without regard to conflict of law provisions.

11. **Exclusive Venue and Jurisdiction.** Any lawsuit or legal proceeding arising out of or relating to this Agreement in any way whatsoever shall be exclusively brought and litigated in the applicable federal and/or state courts of Lee County, Mississippi. Each party expressly consents to and submits to this exclusive jurisdiction and exclusive venue. Each Party expressly waives the right to challenge this jurisdiction and/or venue as improper or inconvenient. Each

Party consents to the dismissal of any lawsuit that they might bring in any other jurisdiction or venue.

12. **Signatories:** This Agreement shall be signed on behalf of the Business by Scott Hendrix, its General Manager and Chief Executive Officer, and on behalf of the City by Todd Jordan, Mayor and effective as of the date first written above.

TOMBIGBEE ELECTRIC POWER ASSN. and TOMBIGBEE FIBER, LLC.

By: _____
Scott Hendrix, General Manager and CEO

CITY OF TUPELO, MISSISSIPPI

By: _____
Todd Jordan, Mayor