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INDEMNITY AGREEMENT

State of Alabama

BACKGROUND

A. This Indemnity Agreement is made effective as of the following date: _____, by and between the following protected Party (the "Indemnitee"):

of

and the following reimbursing Party (the "Indemnifier"):

of

B. *WHEREAS*, the Indemnitee desires protection against any personal liability, claim, suit, action, loss, or damage that may be a result of Indemnitee's receiving the herein described service.

C. *WHEREAS*, the Indemnifier desires to provide protection and minimize harm the Indemnitee may suffer as a result of any personal liability, claim, suit, action, loss, or damage that may result from the Indemnitee's receiving the herein described service.

D. *WHEREAS*, the Indemnifier is protecting the Indemnitee in exchange for the Indemnitee receiving the following service:

NOW THEREFORE, in consideration of the Indemnitee receiving the herein described service, and the Indemnifier and the Indemnitee entering into this Agreement, and all other good and valuable consideration, as well as the mutual covenants and conditions contained herein, the Parties hereby agree as follows:

I. INDEMNIFICATION.

1. The Indemnifier agrees to fully hold harmless, defend, and indemnify the Indemnitee from any and all civil claims, actions, and lawsuits arising out of the Indemnitee's receiving the herein described service, including, without limitation, expenses, all claims for fines, settlements, judgments, personal injury, wrongful death, and other amounts actually and reasonably incurred in connection with any liability, suit, action, loss, or damage arising from Indemnitee's participation, subject to any applicable limits on indemnification herein described.

2. Where prohibited by federal, state, or local law, the above indemnification does not include indemnification of the indemnitee against any claims caused by the gross negligence or fault of the Indemnitee, their agent or employee, or any third party under their supervision or control, other than the Indemnifier and their agents, employees, or subcontractors.

3. In the case of criminal proceedings arising as a result of Indemnitee's receiving the herein described service, the Indemnifier will indemnify the Indemnitee against all amounts including, without limitation, expenses, fines, judgments, settlements, and other amounts actually and reasonably incurred by the Indemnitee subject to any applicable limits on indemnification herein described.

4. Under the terms of this Agreement, the maximum amount of indemnification the Indemnifier is obligated to pay will be limited to \$2 (two US dollars) with respect to any single claim or action.

5. The Indemnifier agrees to cooperate in good faith and use best efforts to ensure that the Indemnitee is reimbursed and indemnified for any and all relevant expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the defense of any claim or action resulting from the Indemnitee's receiving the herein described service.

6. The Indemnitee agrees to cooperate in good faith and use best efforts to provide any and all necessary information and documents within their power as required for the defense of any claim or action. The Indemnitee shall also provide any and all information and documents necessary within the Indemnitee's power to help in a determination of indemnification as described herein.

II. EXCEPTIONS TO INDEMNIFICATION.

7. The Indemnitee shall not be entitled to indemnification from the Indemnifier for any judgments, settlements, expenses, fines, lawsuits, or other amounts incurred as a result of the Indemnitee's actions where:

- a. in the case of a civil claim, the Indemnitee is determined to have acted negligently and without due and reasonable care;
- b. in the case of a criminal action, the Indemnitee had reasonable cause to believe their conduct was unlawful;
- c. the actions or conduct of the Indemnitee constituted willful misconduct or were knowingly fraudulent or deliberately dishonest;
- d. the Indemnitee will or has received payment under a valid and collectible insurance policy or under a valid and enforceable indemnity clause, bylaw, or agreement, except where payment under this policy, clause, bylaw, or agreement is not sufficient to fully indemnify the Indemnitee, in which case the Indemnifier shall be responsible for making up the difference; or
- e. an action or proceeding was initiated in whole or in part by the Indemnitee whether alone or along with one or more other claimants unless the action or proceeding has the written consent of the Indemnifier.

III. NOTICE OF CLAIM.

8. In the event of any claim or action, the Indemnitee shall promptly provide the Indemnifier with written notice of the claim or action and will notify the Indemnifier within five (5) business days of the commencement of any legal proceedings relating to the claim or action. The Indemnitee will provide the Indemnifier with all available information known to the Indemnitee relating to the claim or action.

IV. AUTHORIZATION OF INDEMNIFICATION.

9. In any case requiring indemnification for the Indemnitee, the Indemnifier will make the determination of whether indemnification is due and appropriate having given all due consideration to the terms described herein.

10. If the Indemnitee disagrees with the determination of the Indemnifier, then the matter shall be referred for review and determination to independent legal counsel or mediation reasonable satisfactory to the Indemnitee. The Indemnifier shall bear all costs associated with the process of making an independent determination.

11. The Indemnifier bears the burden of proving that indemnification is not appropriate if that is the conclusion they reach after their initial review.

12. The termination of a claim or action by judgment, order, settlement, or conviction, or upon a valid plea of nolo contendere or equivalent, shall not, in and of itself, create a presumption that the Indemnitee did not act in good faith and in a reasonable manner, in the case of a criminal action, that the Indemnitee had reasonable cause to believe that their conduct was unreasonable.

V. PARTICIPATION IN DEFENSE.

13. Upon notification of any impending action or claim, the Indemnifier may, at their discretion and at their own expense, participate in the defense of any action or claim and may, alone or with any other indemnifying party, assume the defense against the action or claim using counsel deemed to be reasonably satisfactory by the Indemnitee.

14. After the Indemnifier has notified the Indemnitee of their intention to participate in the defense, the Indemnifier will no longer be deemed to be liable to the Indemnitee for any additional legal expenses incurred subsequently by the Indemnitee in relation to defense against the claim. The Indemnitee may employ, or continue to employ, their own legal counsel. However, any fees or expenses incurred by the Indemnitee after being notified of the Indemnifier's intention to assume the defense will be the sole responsibility of the Indemnitee.

15. If the Indemnifier chooses not to participate in the defense against the claim or action, the Indemnitee may defend against the claim or action in any reasonable manner they deem sufficient and appropriate. The Indemnifier shall promptly reimburse the Indemnitee for all expenses, judgments, fines, settlements, and any other amounts actually and reasonably incurred in connection to the defense of the claim or action subject to the limits on indemnification described herein.

VI.

VII.

VIII. PAYMENTS.

16. Indemnifier shall make all necessary and due payments to the Indemnatee within 30 (thirty) days of receipt of Notice of Indemnity from the Indemnatee and without deduction for counterclaim, defense, recoupment, or set-off.

17. Any and all Notices of Indemnity made by the Indemnatee shall be made in writing and contain a full detailing of the items that shall be covered by the payment from the Indemnifier.

IX. BREACH OF CONTRACT.

18. The occurrence of any of the following shall constitute a material default under this Agreement:

- a. The failure to make a required payment when due.
- b. The insolvency or bankruptcy of either Party.
- c. The subjection of any of either Party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or governmental agency.

19. If any rights or remedies claimed by the Indemnatee under this Agreement are not paid by the Indemnifier, or on their behalf, within 30 (thirty) days after the Indemnatee provides the Indemnifier with proper written Notice of Indemnity, this shall be considered a material breach of this Agreement. Indemnatee shall be entitled to bring suit against the Indemnifier to recover any unpaid amounts and, if successful, in whole or in part, the Indemnatee shall be entitled to be paid any and all costs related to resolving the claim.

20. Where a determination of indemnification is made as described herein and concludes that the Indemnatee is not entitled to indemnification, this shall not be

considered a breach that creates the presumption that the Indemnatee is not entitled to any other indemnification under this Agreement.

X. INDEMNIFICATION INSURANCE.

21. The Indemnifier shall take out and maintain indemnification insurance coverage with an insurer reasonably acceptable to the Indemnatee on terms reasonable and sufficient to fulfill the Indemnifier's obligation to provide proper indemnification.

22. If the Indemnifier fails to acquire and maintain indemnification insurance coverage within a reasonable amount of time from the start of this Agreement, the Indemnatee may take out insurance and charge all costs to the Indemnifier.

XI. DURATION AND TERMINATION.

23. This Agreement will terminate automatically on _____.

XII. JOINT AND SEVERAL LIABILITY.

24. If two or more parties act as Indemnifier in this Agreement or if the Indemnifier is a partnership with two or more partners, then liability under this Agreement shall be joint and several for each co-Indemnifier.

XIII. CONFIDENTIALITY.

25. Both the Indemnifier and the Indemnatee, and their respective employees, agents, and contractors, shall at all times shall maintain as confidential all information related to this Agreement and shall not at any time or in any manner, either directly or indirectly, use for the personal benefit of the other Party, or divulge, disclose, or communicate in any manner any information that is proprietary to the other Party, except where required to disclose under any regulatory or other authority or as otherwise required by law.

XIV. ENTIRE AGREEMENT.

26. This Agreement contains the entire agreement of the Parties, and there are no other promises or conditions in any other agreement, whether oral or written, concerning the subject matter of this Agreement.

27. This Agreement supersedes any prior written or oral agreements between the Parties.

XV. SEVERABILITY.

28. If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable.

29. 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 will be deemed to be written, construed, and enforced as so limited.

XVI. AMENDMENT.

30. This Agreement may be modified or amended in writing, if the writing is signed by the Party obligated under the amendment.

XVII. GOVERNING LAW.

31. This Agreement shall be construed in accordance with the laws of the State of Alabama.

XVIII. NOTICE.

32. Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph of this Agreement or to such other address as one Party may have furnished to the other in writing.

XIX. WAIVER OF CONTRACTUAL RIGHTS.

33. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

EXECUTION:

_____, Representative of _____, *Indemnatee*

Date

_____, Representative of _____, *Indemnifier*

Date