

# **SPECIAL PROVISIONS FOR ABATEMENT SUBCONTRACTS**

1. The FCC Standard Provisions shall be modified to read as follows:

## **INDEMNIFICATION.**

As Used In This Article, The Following Definitions Shall Apply:

“Environmental Response Action” Means, Without Limitation, Any Response Action, Including Removal And Remediation Action, Within The Meaning Of The Comprehensive Environmental Response, Compensation And Liability Act (“CERCLA”); Any Corrective Action Within The Meaning Of The Resource Conservation And Recovery Act (“RCRA”); And Any Other Investigation, Analytical Service, Remedial Or Clean-Up Action Under Any Other Environmental Laws.

“Hazardous Materials” Includes, Without Limitation, Hazardous Substances, Pollutants And Contaminants Within The Meaning Of CERCLA; Hazardous Waste Within The Meaning Of RCRA; And Hazardous Material, Acutely Hazardous Waste, Radioactive Waste, Toxic Substances, Pollutants Or Contaminants Under Any Applicable Environmental Laws. The Term Includes Crude Oil Or Refined Petroleum Products Such As Oil, Gasoline Or Other Petroleum-Based Fuels.

The Subcontractor Expressly Agrees To Save And Hold Harmless, Indemnify And Defend The Contractor, Owner And The Architect Or Engineer From And Against Any And All Liability, Claims, Losses, Damages, Causes Of Action, Costs And Expenses, Including Attorney’s Fees, Arising Or Allegedly Arising From, Personal Injury Or The Death Of Any Person, Including But Not Limited To Employees Of The Subcontractor; Property Damage, Including Loss Of Use Thereof; Economic Loss; Fines Or Penalties; Environmental Response Actions Resulting From Releases Discharges, Emissions, Spills, Storage, Handling, Or Disposal Of, Or Any Other Acts Or Omissions Concerning Hazardous Materials Or Otherwise; Arising Or Growing Out Of The Work Performed By The Subcontractor Or For The Subcontractor’s Account Under This Agreement, Including Any Claim Or Liability Arising From Any Act, Error, Omission, Or Negligence Of The Contractor Occurring Concurrently With That Of The Subcontractor Or Contributing To Any Loss Indemnified Hereunder, Except For The Sole Negligence Or Willful Misconduct Of The Contractor. This Indemnity Is Not Intended To Extend To Any Claim Arising From The Negligence Of The Architect Or Engineer Relating To Or Arising From The Design And/Or Engineering For The Project.

The Subcontractor Expressly Agrees To Indemnify, Defend And Hold Harmless The Contractor, Owner And The Owner’s Authorized Agent And Any Other Party The Contractor Is Obligated To Indemnify Under The Contract (Collectively, “The Indemnitees”) From And Against Any An All Liability, Claims, Losses, Damages, Causes Of Action, Costs And Expenses (Including Attorneys’ Fees), Arising Or Allegedly Arising From The Work Performed By The Subcontractor Or For The Subcontractor’s Account Under This Agreement, Including Any Claim Or Liability Arising From Any Act, Error, Omission, Or Negligence Of The Contractor Occurring Concurrently With That Of The Subcontractor Or Contributing To Any Loss Indemnified Hereunder, Except For The Sole Negligence Or Willful Misconduct Of The Contractor. The Claims To Which This Indemnity Obligation Shall Apply Include, But Are Not Limited To, Claims For Personal Injury Or Death Including But Not Limited To Claims By Employees Of Subcontractor Or Lower-Tier Subcontractors To Subcontractor, Property Damage Including Loss Of Use Thereof, Economic Loss Or Otherwise, Arising Or Allegedly Arising From Subcontractor’s Work. Except To The Extent Required By The Contract Documents, This Indemnity Is Not Intended To Extend To Any Claim Arising From The negligence Of The Architect Or engineer Relating To Or Arising From The Design And/Or Engineering For The Project.

The Subcontractor Shall Indemnify, Defend And Hold Harmless The Indemnitees From Any And All Claims, Suits, And Causes Of Action By Vendors Or Agents Of The Subcontractor Or Its Lower-Tier Subcontractors When Such

Claims, Suits, Losses, Damages Or Expenses Shall Have Been Incurred Or Are Alleged To Have Been Incurred As A Result Of An Unsafe Place To Work Or Such Similar Type Of Complaint. The Subcontractor, Its Lower-Tier Subcontractors And Vendors Shall Not raise The Immunity Of Workers' Compensation Acts Or Similar Laws As A Defense To The Obligations Assumed Hereunder With Respect To Actions Brought By Their Own Employees Against The Indemnitees.

The Subcontractor Shall Pay All The Expenses and Attorneys' Fees Incurred By The Indemnitees In The Enforcement Of The Conditions And Obligations Of This Agreement, Or Of Any Bond Furnished By Subcontractor In Connection Herewith. In The Event Subcontractor Refuses To Assume The Defense Of A Claim Or Action Indemnified Hereunder, Such Expenses And Costs Of Attorneys' Fees Shall Be Recovered Whether Such Claims Or allegations Were Valid Or Not.

If Required By Applicable Law, By Entering Their Initials In The Space Below, Contractor And Subcontractor Acknowledge Payment Of One Hundred Dollars (\$100.00) Out Of The First Payment Issued to Subcontractor As Separate Consideration For The Indemnification Obligations assumed by Subcontractor herein.

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CONTRACTOR

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SUBCONTRACTOR

2. The FCC Standard Provisions shall be modified to include the following provision:

POLLUTION INSURANCE.

**(a)** Subcontractor shall provide and maintain at all times during the performance of this Subcontract the following insurance:

Environmental/Pollution Liability Insurance in the amount of \$5,000,000 covering the term of the Project duration and extended to cover a subsequent claim period of five (5) years after the final completion of the Project. Coverage shall include all Project sites, off-site, and transportation exposures related to Subcontractor's performance and completion of the Work.