

Washington

In light of Washington Revised Code of Washington Annotated Section 4.24.115, we recommend the following indemnification for construction agreements:

"To the fullest extent permitted by law, CONTRACTOR/VENDOR shall indemnify, defend, and hold harmless PROPERTY OWNER, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorneys' fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with CONTRACTOR/VENDOR's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in the agreement, except where the claims are caused by or resulting from the sole negligence of Indemnified Parties, and only to the extent of CONTRACTOR/VENDOR's negligence where the claim is caused by or resulting from the concurrent negligence of Indemnified Parties and CONTRACTOR/VENDOR, including its agents or employees. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to PARTIES.

The indemnification obligations of CONTRACTOR/VENDOR under this Agreement shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which CONTRACTOR/VENDOR is required to carry under this Agreement. Indemnified Parties' right to indemnification from CONTRACTOR/VENDOR under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by CONTRACTOR/VENDOR under this Agreement.

CONTRACTOR/VENDOR's duty to defend the Indemnified Parties is entirely separate from, independent of, and free-standing from CONTRACTOR/VENDOR's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of CONTRACTOR/VENDOR's liability, breach of this Agreement or other obligation, or CONTRACTOR/VENDOR's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from CONTRACTOR/VENDOR's performance of the Work. Such defense obligation shall arise immediately upon presentation of a claim by any

Person which arises out of or is connected to the Work performed by CONTRACTOR/VENDOR or any of its Agents and written notice of such claim being tendered to CONTRACTOR/VENDOR."

For every contract other than a construction contract, we recommend the following, broader, indemnification provision:

"To the fullest extent permitted by law, CONTRACTOR/VENDOR shall indemnify, defend, and hold harmless PROPERTY OWNER, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorneys' fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with CONTRACTOR/VENDOR's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in the agreement, whether or not caused in whole or in part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to PARTIES."

The indemnification obligations of CONTRACTOR/VENDOR under this Agreement shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which CONTRACTOR/VENDOR is required to carry under this Agreement. Indemnified Parties' right to indemnification from CONTRACTOR/VENDOR under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by CONTRACTOR/VENDOR under this Agreement.

CONTRACTOR/VENDOR's duty to defend the Indemnified Parties is entirely separate from, independent of, and free-standing from CONTRACTOR/VENDOR's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of CONTRACTOR/VENDOR's liability, breach of this Agreement or other obligation, or CONTRACTOR/VENDOR's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from CONTRACTOR/VENDOR's performance of the Work. Such defense obligation shall arise immediately upon presentation of a claim by any Person which arises out of or is connected to the Work performed by CONTRACTOR/VENDOR or any of its Agents and written notice of such claim being tendered to CONTRACTOR/VENDOR."