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Managing Legal Risks Associated with Cutting-Edge Remediation Technologies Via Contract Terms

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Technological innovation that expands the menu [of available options], increases the capability, or reduces the cost of available pollution control technology is commonly viewed as a desirable goal (Percival et al.).¹

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The notion of using technology as a means of enhancing the efficacy of environmental cleanup activities is an appealing one, and, as Percival et al. indicate above, it is a notion that is generally viewed with approval. For example, as early as 1990, the U.S. Environmental Protection Agency (EPA) established the Technology Innovation Office (TIO, now known as the Technology Innovation Program TIP),² with funding in recent years in the millions.³ Although the EPA is apparently keen to encourage risk-taking with

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new technologies at certain stabilized sites in order to lower costs and decrease the time needed for remediation, its encouragement is focused on expediting the process and assisting in state coordination with such approaches, not in lessening the liabilities of propounders of new approaches and technology innovators.⁴

LIMITED PROTECTION FROM LIABILITY

Relief from liability arising from technological failures, or from the consequences of innovative, cutting-edge technologies gone wrong is not clearly a pervasive part of EPA's approach to remediation. The most well-known limitation on actions against persons or companies undertaking remediation actions relates to response action contractors:⁵

A person who is a response action contractor with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a vessel or facility shall not be liable under this title or under any *federal* [emphasis added] law to any person for injuries, costs damages or other liability (including but not limited to claims for indemnification or contribution in claims by third parties for death, personal injury, illness or loss of or damage to property, or economic loss) which results from such release or threatened release.⁶

As indicated in Note,⁶ there are important limitations to this protection, which is primarily intended for contractors hired by the government to respond to an environmental issue. There is no protection for the contractor's negligence or intentional misconduct, or from state law tort liability. Similarly, the EPA is authorized to indemnify response action contractors for their negligence (but not their gross negligence or intentional misconduct).⁷ Any attorney seeking such indemnities for her client would certainly tell us that EPA is, at best, "reluctant" to provide those indemnities.

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¹R. V. Percival, C. H. Schroeder, Alan S. Miller, and J. P. Leape, *Environmental Regulation: Law, Science and Policy*, 4th ed. (New York: Aspen Publishers, 2003), 136.

²<http://www.epa.gov/tio/about.htm#miss>

³K. N. Probst, D. M. Konisky, R. Hersch, M. B. Batz, and K. D. Walker, *Superfund's Future: What Will It Cost? A Report to Congress* (Washington, DC: RFF (Resources for the Future) Press, 2001)

⁴"Promotion of Innovative Technologies in Waste Management Programs," Osrw Policy Directive 9380.0-25, <http://www.epa.gov/tio/download/reg/itpolmem.pdf>.

⁵Response action contractors are defined at CERCLA § 119(e)(2).

⁶SARA § 119, 42. USC §9619. This limitation of liability does not apply to the negligence or intentional misconduct of the contractor, for example. CERCLA §119(a)(2). Field demonstrations under 42 USC 9660(a)(5) are situations where contractors may be deemed response action contractors, but they are still liable for their neglect or intentional misconduct. The statutes make it clear that contractual warranties are not negated by operation of this protection. 42 USC. §9619(a)(3).

⁷CERCLA §119(c)(1).

There have been state attempts to provide purported liability relief to professionals engaged in remediation activities. For example, in 1990 California passed a state law that provided that an agreement to indemnify a professional engineer or geologist for various environmentally related activities, including remediation services, would be valid, notwithstanding the state's anti-indemnity statute for services in the construction field. The indemnity would be valid only for damages arising from subterranean contamination and would not apply to the first \$250,000 of liability.⁸

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This is not a real "blanket" protection, but it is, instead, simply a statement that negotiated contractual provisions limiting a professional's liability would not be void on their face. There remains the not-insignificant difficulty of obtaining such an indemnity in the course of contract negotiations for the professional in a negotiating climate where clients are seeking to offload liability upon their contractors and consultants in ever-increasing quantities.⁹

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THEORIES OF LIABILITY

Beyond the arena of response action contracting and demonstration of pilot programs at specified federal sites, it is clear that persons and entities undertaking remediation face numerous legal theories that could trigger a variety of liabilities. These include negligence, nuisance, trespass, and strict liability.¹⁰ Of course, it is certainly plausible that those conducting remediation could face liability without fault under CERCLA or other statutes.¹¹

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Given this risk, we need to understand just what the law may think of new, developing, or unproven technologies in the remediation arena, despite the avowed policies of commentators such as that seen at the outset of this paper, or the helpfulness of EPA as discussed above. The test may not simply be ordinary care, but something of an elevated standard of care. This could, as a practical matter, make it easier for a plaintiff to prove negligence and subsequently recover damages if the neglect proximately caused the harm.

The basic formula for the bulk of cases assessing liability in damages in the U.S. is the historic tort liability formula. Traditionally, this formula has had at its heart the requirement that a defendant be shown to be *negligent* before

⁸California Civ. Code § 2782.6, cited in R. L. Erickson, *Environmental Remediation Contracting* (Wiley Law Publications, 1992), §8.20, 270. The statute is still in effect. The author's research has disclosed no reported case in the California state courts interpreting this provision.

⁹See K. J. Duff, "Risk Shifting for Environmental Professionals: A Primer on Standards of Care and Indemnities," *Environmental Claims Journal*, 2002, 14, 3, 301 *et seq.*

¹⁰R. L. Erickson, *Environmental Remediation Contracting* (Wiley Law Publications, 1992) §8.19, 269–270.

¹¹*Id.* at §§8.1 through 8.3, 246–248.

liability may be imposed through the courts. Negligence has typically been defined as a want of care, or an absence of care, a failure to exercise the care that a “reasonable person” would exercise under the circumstances.¹² What we are concerned with in this paper is whether or not ordinary care of typical environmental professionals would be sufficient to insulate an innovator from liability in the event of some catastrophic turn of events.

It must be noted before we proceed further that CERCLA and other environmental laws also allow for liability *without* fault, or negligence. Moreover, depending upon the type of new technology involved, there is a real risk that the new technology could be viewed as falling under product liability law, which is, again, liability without fault. Thus, no matter how “reasonable” and “careful” a technology innovator might be, there is a risk, depending upon the facts, that the liability imposed would be strict and would be imposed even in the absence of neglect.

REASONABLE CARE AND THE CUTTING EDGE OF TECHNOLOGY

For the professional or contractor engaged in the development of a new remediation technology, the law will not allow a low, minimal standard for determinations of neglect. Consider this quote from the traditional definitive text:

13 But, if a person in fact has knowledge, skill or even intelligence superior to that of the ordinary person, the law will demand of that person conduct consistent with it.¹³

14 Professionals (including architects and engineers)¹⁴ must “use all care which is reasonable in light of their superior learning and experience, and any special skills, knowledge or training they may personally have over and above what is normally possessed by persons in the field.”¹⁵

AN ELEVATED STANDARD OF LIABILITY?

It seems clear that one proposing a new process by which to attack an environmental remediation problem almost by definition holds one’s self out as somewhat above the field, since, after all, the development of the new approach is so innovative no one else has thought of it. Accordingly, the innovating propounder of the new technology should be wary of making any

¹²See the classic text and discussion: W. P. Keeton, D. B. Dobbs, R. E. Keeton, and D. G. Owen, *Prosser and Keeton on Torts*, 5th ed. (St. Paul, MN: West Group, 1984; 10th repr., 2004), §32 *et seq.*

¹³*Id.*, 185.

¹⁴*Id.*, 185-186.

¹⁵*Id.*, 185.

promises of performance (contrary to the desires of the marketing department) and should, consistent with the doctrine of “informed consent,” explain clearly and repeatedly that this is a new technology that is not mature and that is not completely understood, despite its great apparent promise.

Otherwise, claims in tort (typically some species of professional liability, or “malpractice”) for damages from the client could be devastating. Similarly, the client might well be able to bring various claims for breach of contract, if warranties were not clearly disclaimed. Lastly, claims of misrepresentation (negligent or intentional) may well be at least defused in part through a well-drafted disclaimer of efficacy and a repeated recitation of the immaturity of the technology.

This thought process brings us to the most promising means of managing the risks inherent in bringing new technology to market, in the form of contractual provisions, which we will now explore.

METHODS OF MANAGING LIABILITY BY CONTRACT

Disclaimer. The notion of a disclaimer is essential to the notion of informed consent and to the notion of warranty disclaimers in general.

1. The disclaimer should, *first and foremost*, clearly set out that the technology is not robust, proven, and is not perfectly or completely understood. As a result, its application or use may not be uniformly efficacious.
2. The disclaimer should also inform the client that the consequences of the use of the technology have not been completely explored, and that unknown consequences of using the technology may well arise despite the prudent efforts of the entity introducing the technology. It should be clearly stated that these consequences may be of no importance, or they may even be catastrophic.
3. The disclaimer should disclaim all warranties and representations and guarantees, repeating that the technology is not yet fully proven and that results from implementation of the new technology could range from a lack of efficacy to making the situation much worse.

With these considerations in mind, here is some draft language to this effect:

DISCLAIMER OF WARRANTY AND DESCRIPTION OF RISKS ASSUMED BY CLIENT RELATIVE TO CLIENT'S CHOICE TO USE NEW AND DEVELOPING TECHNOLOGY. NO WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY OUR PROPOSAL OR BY ANY OF OUR ORAL OR WRITTEN REPORTS. THE ONLY WARRANTY MADE IS THAT CONSULTANT/CONTRACTOR WILL PERFORM ITS WORK IN GENERAL COMPLIANCE WITH

THE SCOPE OF SERVICES. ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY FULLY AND COMPLETELY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO ANY AND ALL WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER SUCH WARRANTY AS TO THE EFFECTIVENESS OR FUNCTION OF THE AGENT X MICROBES OR SERVICES. AGENT X IS A NEW AND DEVELOPING TECHNOLOGY THAT HAS NOT YET BEEN APPLIED IN A TOTALLY DIVERSE SET OF CIRCUMSTANCES AND HAS NOT YET BEEN TESTED AS TO ITS INTERACTIONS AS TO ALL POSSIBLE CONTAMINANTS. THE PARTIES AGREE AND CLIENT ACKNOWLEDGES THAT: (1) AGENT X MAY NOT BE EFFICACIOUS IN THE PRESENT SITUATION DESPITE CONSULTANT'S/CONTRACTOR'S ASSESSMENT THAT IT APPEARS TO BE A PROMISING REMEDIATION ALTERNATIVE, AND (2) THAT AGENT X MAY BE OF LITTLE EFFECT IN THE SITUATION, AND (3) THAT USE OF AGENT X IN THE CLIENT'S SITUATION AND AT THE CLIENT'S SITE(S) MAY HAVE UNANTICIPATED AND POTENTIALLY IRREVERSIBLE NEGATIVE CONSEQUENCES, DESPITE CONSULTANT'S/CONTRACTOR'S PROPER PERFORMANCE OF ITS PROPOSED SCOPE OF SERVICES FOR CLIENT. SUCH NEGATIVE AND POTENTIALLY IRREVERSIBLE CONSEQUENCES COULD INCLUDE THE CREATION OF LIABILITY FOR CLIENT, DUE TO THE FACT THAT CLIENT HAS ELECTED TO USE A NEW AND EVOLVING TECHNOLOGY THAT IS STILL UNDERGOING DEVELOPMENT, AND CLIENT ASSUMES THE RISK OF SUCH EVENTS. CLIENT REAFFIRMS THE INDEMNITY AND LIMITATION OF LIABILITY PROVISIONS ELSEWHERE HEREIN. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT/CONTRACTOR, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

4. Language guaranteeing a specific result should be avoided. ("Product X will decrease the triple-methyl-ethyl death molecule concentration at the site by 95% within three weeks of the first application.") If it must be used, such language must be appropriately caveated with the assistance of counsel. It should be remembered in such an event that limitations of liability (discussed below) are of even greater importance.

Standard of Care. The standard of care should be agreed upon by the parties in advance, and the contract should state that if the provider of the technology has acted as set out in the proposed scope of services, there has been no negligence.¹⁶ Here is a working draft set of terms relative to the standard of care:

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¹⁶See Note 9. *supra*.

STANDARD OF CARE FOR NEW AND EVOLVING/DEVELOPING TECHNOLOGY. CLIENT AGREES THAT: (1) SINCE CONSULTANT/CONTRACTOR WILL BE PROVIDING AGENT X SERVICES; AND (2) THAT AGENT X IS A NEW AND EVOLVING TECHNOLOGY THAT IS NOT COMPLETELY DEVELOPED OR UNDERSTOOD; AND THAT (3) DESPITE THE PROFESSIONAL EFFORTS OF CONSULTANT/CONTRACTOR, ADVERSE EFFECTS FROM THE USE OF AGENT X MAY EVENTUATE. THEREFORE, CLIENT HEREBY EXPRESSLY AND IRREVOCABLY AGREES THAT THE COMPLETION OF THE SCOPE OF SERVICES BY CONSULTANT/CONTRACTOR IN SUBSTANTIAL COMPLIANCE WITH THE MATERIAL ASPECTS OF SUCH SCOPE OF SERVICES SHALL BE CONCLUSIVE EVIDENCE THAT CONSULTANT/CONTRACTOR HAS *NOT* ACTED NEGLIGENTLY IN ANY WAY, IRRESPECTIVE OF THE RESULTS OR EFFECTS THAT EVENTUATE FROM THE USE OR APPLICATION OF AGENT X. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT/CONTRACTOR, AND WITHOUT SUCH AGREEMENT, CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

Scope of Services. The agreement and supporting proposal documents should all have a fact-based approach to the scope of services. For example, it would not be good to state that Agent X will be applied to the site until the constituent of concern decreases to some specified level. It would be better to state that "X gallons of Agent X will be applied over a period of—days to the site, using the following application methods . . ." One sentence seems to promise a result, provide a warranty, or some sort of guarantee. The other is *action-based*, not *result-predictive*.

Au: Word
Missing
here.

Indemnity. Environmental indemnities from the client are of great importance, especially in the event of a liability without fault situation (e.g., CERCLA). The provider of the new technology should avoid or limit indemnities to the client. If an indemnity is required by the client from the consultant/contractor, then the indemnity should only be to the extent of the new technology provider's negligence. Remember to refer to neglect as a failure to perform the proposed scope of services.¹⁷ Here is a discussion draft of some language to that effect:

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INDEMNITY FOR THIRD-PARTY CLAIMS. Client agrees to fully indemnify and hold harmless CONSULTANT/CONTRACTOR, its employees, officers, directors, shareholders, representatives, agents, affiliates, and subsidiaries from any and all claims or suits by or on behalf of third parties arising out of provision of services or products provided under this Agreement, unless such claim or suit is finally adjudicated to have been caused by the sole negligence of CONSULTANT/CONTRACTOR (it being expressly agreed that other portions of this Agreement define negligence as a failure by CONSULTANT/CONTRACTOR to perform the Scope of Services

¹⁷*Id.*

set out elsewhere herein in some material respect). CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT/CONTRACTOR, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

If the client is adamant that the consultant or contractor provide some sort of return indemnity to the client, then language along the lines of the draft set out below might be of some assistance:

INDEMNITY FROM CONSULTANT/CONTRACTOR. CONSULTANT/CONTRACTOR agrees to fully indemnify and hold harmless Client from and against any and all claims or suits of third parties to the extent same arise out of the sole "negligence" (it being agreed that "negligence" is defined here and elsewhere herein as a failure by CONSULTANT/CONTRACTOR to perform the CONSULTANT/CONTRACTOR's Scope of Services in some material respect) of CONSULTANT/CONTRACTOR relative to CONSULTANT/CONTRACTOR's provision of services or products under this Agreement, subject always and in every respect to the limitations of liability set out elsewhere herein. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT/CONTRACTOR, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

18 **Limitations of Liability.** Limitations of liability come in two primary types: *qualitative* and *quantitative*.¹⁸ In the first, the parties agree to waive claims arising from *classes* or *types* of damages, such as consequential or punitive damages. In the second, the parties agree to some specific dollar amount as being the absolute maximum amount that could be recovered in damages. Of course, it is also possible to attempt to combine these approaches, waiving agreed-to classes of damages and also agreeing that in no event will damages exceed some negotiated amount. Language along these lines might provide a suitable starting place for managing this risk:

LIMITATION. INASMUCH AS AGENT X IS A NEW AND DEVELOPING TECHNOLOGY, RELATIVE TO WHICH A SIGNIFICANT DEGREE OF UNCERTAINTY OBTAINS, THE PARTIES AGREE AS FOLLOWS: CLIENT AGREES THAT CONSULTANT/CONTRACTOR'S LIABILITY TO CLIENT OR ANY THIRD PARTY DUE TO (1) ANY NEGLIGENT ACTS, ERRORS, OR OMISSIONS OR BREACH OF CONTRACT BY CONSULTANT/CONTRACTOR, OR (2) ANY LIABILITY OF CONSULTANT/CONTRACTOR TO CLIENT ARISING OUT OF OR RELATED TO THE SERVICES PROVIDED OR RENDERED TO CLIENT BY CONSULTANT/CONTRACTOR, OR (3) ANY LIABILITY OF CONSULTANT/CONTRACTOR TO CLIENT ARISING OUT OF OR RELATING TO THE PROVISION, SALE, OR APPLICATION OR EFFECT OF AGENT X TO

¹⁸ L. D. Young, "Limitations on Design Professional Liability," 1998 *Wiley Construction Law Update*, 1998 chapt. 3.

CLIENT, OR (4) DUE TO ANY OTHER CLAIM WHATSOEVER ALLEGED TO BE CAUSED BY CONSULTANT/CONTRACTOR, WILL BE LIMITED BY CLIENT TO A TOTAL MAXIMUM AGGREGATE OF \$50,000 OR CONSULTANT/CONTRACTOR'S TOTAL CHARGES TO CLIENT, WHICHEVER IS GREATER, ALONG WITH REPERFORMANCE OF CONSULTANT/CONTRACTOR'S SERVICES AT NO COST AND/OR THE PROVISION OF AN ADDITIONAL AND EQUAL QUANTITY OF NEW AGENT X TO CLIENT, AS APPROPRIATE. IF CLIENT PREFERS TO HAVE HIGHER LIMITS OF LIABILITY, CONSULTANT/CONTRACTOR AGREES TO INCREASE THE AGGREGATE LIMIT ABOVE \$50,000-OR-FEES, UP TO A MAXIMUM OF \$500,000 (PLUS CONSULTANT/CONTRACTOR'S REPERFORMANCE OF THE SERVICES OR PROVISION OF ADDITIONAL AGENT X AT NO COST), UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTING CONSULTANT/CONTRACTOR'S PROPOSAL, PROVIDED CLIENT AGREES TO PAY (AND DOES PAY UPON BILLING BY CONSULTANT/CONTRACTOR) AN ADDITIONAL CONSIDERATION OF TEN PERCENT OF CONSULTANT/CONTRACTOR'S TOTAL CHARGES, OR \$500, WHICHEVER IS GREATER. IT IS EXPRESSLY AGREED THAT THE ADDITIONAL CHARGE IS BECAUSE OF THE GREATER RISK ASSUMED BY CONSULTANT/CONTRACTOR AND IS NOT A CHARGE FOR ADDITIONAL PROFESSIONAL LIABILITY INSURANCE. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

AGGREGATE LIMITATION. INASMUCH AS AGENT X IS A NEW AND DEVELOPING TECHNOLOGY, RELATIVE TO WHICH A SIGNIFICANT DEGREE OF UNCERTAINTY OBTAINS, THE PARTIES AGREE AS FOLLOWS: IN THE EVENT CLIENT ELECTS TO INCREASE CONSULTANT/CONTRACTOR'S LIABILITY TO AN AMOUNT IN EXCESS OF \$50,000 FOR SERVICES OR FOR THE SALE OF AGENT X (OR BOTH) FOR ADDITIONAL CONSIDERATION AS DESCRIBED IN THE PRECEDING PARAGRAPH, IN NO EVENT SHALL CONSULTANT/CONTRACTOR'S LIABILITY FOR ANY CLAIM OR COMBINATION OF CLAIMS (LABORATORY, FIELD CONTRACTING, CONSULTING SERVICES, OR AGENT X ITSELF) EXCEED A TOTAL MAXIMUM AGGREGATE OF \$500,000. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

DAMAGES LIMITATION (WAIVER OF CERTAIN CLASSES OF CLAIMS AND DAMAGES. INASMUCH AS AGENT X IS A NEW AND DEVELOPING TECHNOLOGY, RELATIVE TO WHICH A SIGNIFICANT DEGREE OF UNCERTAINTY OBTAINS, THE PARTIES AGREE AS FOLLOWS: IN NO EVENT SHALL EITHER CLIENT OR CONSULTANT/CONTRACTOR BE LIABLE TO EACH OTHER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES INCLUDING, BUT NOT LIMITED TO DAMAGES OR CLAIMS CONNECTED WITH THE USE OR INTERPRETATION OF ANY INFORMATION OR ANALYSIS PROVIDED BY CONSULTANT/CONTRACTOR OR WITH ACTIONS OR RELIANCE RELATED TO SUCH USE OR INTERPRETATION, OR IN

CONNECTION WITH THE USE OR IMPLEMENTATION OF CONSULTANT/CLIENT PROTOCOLS RELATIVE TO AGENT X, OR THE APPLICATION OF AGENT X. CLIENT'S AGREEMENT TO THESE TERMS AND PROVISIONS ARE A FUNDAMENTAL BASIS-OF-THE-BARGAIN CONSIDERATION FOR CONSULTANT, AND WITHOUT SUCH AGREEMENT CONSULTANT/CONTRACTOR WOULD BE UNWILLING TO PROCEED.

CONCLUSIONS

The liability associated with the implementation of new, cutting edge remediation technologies could be catastrophic in today's unpredictable American tort arena. Moreover, such risks serve as a potentially significant impediment to the valid societal objective of encouraging ongoing innovation in the field of environmental contaminant remediation.

Consultants and/or contractors seeking to introduce such new, unproven technologies would be well advised to meet with their counsel, risk managers, and brokers in order to fully consider such risks. The purpose of this article is not to provide "cookie cutter" solutions, but is, instead, to suggest a starting point for the reader's own discussions with the reader's locally-licensed counsel, the reader's risk management team, and the reader's broker. This article is subject in every respect to the limitations on use that follow.

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