

BEFORE EDIT

INDEMNIFICATION

Employee agrees to indemnify, defend and hold harmless Company and its officers, directors, employees, agents, affiliates, parent, subsidiaries, Company's licensors, permitted successors and assigns from and against any and all claims, counterclaims, suits, demands, actions, causes of action, damages, penalties, injuries, setoffs, liens, attachments, judgments, debts, costs, expenses (including without limitation attorneys' fees and expenses) or other liabilities of every character whatsoever (collectively, "Liabilities") for property damage, bodily injury, sickness, and/or disease, including death, or for economic or environmental injury or damages sustained by third parties, to the extent arising out of: (1) the negligent acts, omissions, negligence or willful misconduct of Employee in the performance of his obligations pursuant to this Agreement; (2) any misrepresentation made by Employee in this Agreement; (3) any breach of this Agreement by Employee; or (4) the failure of Employee to comply with, and any liabilities arising under, any applicable law. If both Company and Employee are negligent or otherwise at fault or strictly liable without fault, then the obligations of indemnification under this Section shall continue, but Employee shall indemnify Company only for the percentage of responsibility for the damage or injuries attributable to Employee. For the sake of clarity, the Parties agree that consequential damages suffered by a third party that are an element of loss subject to indemnification hereunder shall be considered direct damages hereunder; provided, however, that the term "Liabilities" as used in this Section (i) shall not include consequential, incidental, indirect, punitive or special damages of any kind that are payable to third party customers or service providers of Company, and (ii) shall not include any supply replacement costs, cover damages or similar liabilities that are payable to a party's customer(s) because of such Company's failure to deliver its products or services to its customers.

Company agrees to indemnify, defend and hold harmless Employee and his heirs, permitted successors and assigns from and against any and all claims, counterclaims, suits, demands, actions, causes of action, damages, penalties, injuries, setoffs, liens, attachments, judgments, debts, costs, expenses (including without limitation attorneys' fees and expenses) or other liabilities of every character whatsoever (collectively, "Liabilities") for property damage, bodily injury, sickness, and/or disease, including death, or for economic or environmental injury or damages sustained by third parties, to the extent arising out of: (1) the negligent acts, omissions, negligence or willful misconduct of Company in the performance of its obligations pursuant to this Agreement; (2) any misrepresentation made by Company in this Agreement; (3) any breach of this Agreement by Company; or (4) the failure of Company to comply with, and any liabilities arising under, any applicable law. If both Company and Employee are negligent or otherwise at fault or strictly liable without fault, then the obligations of indemnification under this Section shall continue, but Company shall indemnify Employee only for the percentage of responsibility for the damage or injuries attributable to Company. For the sake of clarity, the parties agree that consequential damages suffered by a third party that are an element of loss subject to indemnification hereunder shall be considered direct damages hereunder; provided, however, that the term "Liabilities" as used in this Section (i) shall not include consequential, incidental, indirect, punitive or special damages of any kind that are payable to third party customers or service providers of Company, and (ii) shall not include any supply replacement costs, cover damages or similar liabilities that are payable to a party's customer(s) because of such Company's failure to deliver its products or services to its customers.

[584 words]

AFTER EDIT

INDEMNIFICATION

Employee shall indemnify, defend and hold harmless Company and its officers, directors, employees, agents, affiliates, parent, subsidiaries, Company's licensors, permitted successors and assigns from and against all claims, counterclaims, suits, demands, actions, causes of action, damages, penalties, injuries, setoffs, liens, attachments, judgments, debts, costs, expenses (including without limitation attorneys' fees and expenses) or other liabilities of any character (collectively, "Liabilities") for property damage, bodily injury, sickness, and/or disease, including death, or for economic or environmental injury or damages sustained by third parties, to the extent arising out of:

- (1) Employee's negligent acts, omissions, negligence or willful misconduct in performance of his obligations under this Agreement.
- (2) Any misrepresentation made by Employee in this Agreement.
- (3) Any breach of this Agreement by Employee.
- (4) Employee's failure to comply with, and any liabilities arising under, any applicable law.

Company shall indemnify, defend and hold harmless Employee and his heirs, permitted successors and assigns from and against all claims, counterclaims, suits, demands, actions, causes of action, damages, penalties, injuries, setoffs, liens, attachments, judgments, debts, costs, expenses (including without limitation attorneys' fees and expenses) or other liabilities of any character (collectively, "Liabilities") for property damage, bodily injury, sickness, and/or disease, including death, or for economic or environmental injury or damages sustained by third parties, to the extent arising out of:

- (1) Company's negligent acts, omissions, negligence, or willful misconduct in the performance of its obligations under this Agreement.
- (2) Any misrepresentation made by Company in this Agreement.
- (3) Any breach of this Agreement by Company.
- (4) Company's failure to comply with, and any liabilities arising under, any applicable law.

If both Company and Employee are negligent or otherwise at fault or strictly liable without fault, then the obligations of indemnification under this Section continue, but Employee shall indemnify Company only for the percentage of responsibility for the damage or injuries attributable to Employee. The Parties agree that consequential damages suffered by a third party that are an

element of loss subject to indemnification hereunder are considered direct damages hereunder; provided, however, that the term “Liabilities” as used in this Section excludes:

- (i) Consequential, incidental, indirect, punitive or special damages of any kind payable to Company’s customers or service providers.
- (ii) Supply replacement costs, cover damages, or similar liabilities payable to a party’s customer(s) because of such Company’s failure to deliver its products or services to its customers.

[393 WORDS]

33% FEWER WORDS!