

## **SAMPLE INDEMNITY PROVISION**

DESIGN PROFESSIONAL agrees to indemnify and hold harmless CLIENT, its officers, directors, partners, employees, and any other entity or person for which DESIGN PROFESSIONAL is legally liable, from and against any damages, losses, liabilities, judgments, settlements, expenses, and costs (including reasonable attorneys' fees, costs and expenses recoverable under applicable law), that CLIENT incurs from claims by third parties, to the extent caused by negligent acts, errors or omissions or willful misconduct of DESIGN PROFESSIONAL in the performance of professional services under this Agreement and any other entity or person for which DESIGN PROFESSIONAL is legally liable.

### **FOR CALIFORNIA PROJECTS:**

Notwithstanding the foregoing, if DESIGN PROFESSIONAL'S obligation to defend, indemnify and hold harmless arises out of DESIGN PROFESSIONAL'S performance of services for the Project as a "design professional," as that term is defined in California Civil Code Section 2782.8, DESIGN PROFESSIONAL'S obligation shall be limited in accordance with the provisions of Section 2782.8 as it was in effect as of the date of this Agreement.

### **FOR NON-CALIFORNIA PROJECTS:**

DESIGN PROFESSIONAL shall only be required to reimburse CLIENT for its reasonable defense fees, costs, and expenses in direct proportion to DESIGN PROFESSIONAL'S negligence on a percentage basis as ultimately determined by a court of competent jurisdiction and further, only to the extent such fees, costs, and expenses were directly attributable to CLIENT'S defense of a suit based on DESIGN PROFESSIONAL'S actual negligence.

Design Professional agrees to obtain executed indemnity agreements with provisions identical to those set forth in this indemnity provision from each and every consultant retained by Design Professional.

In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations.

DESIGN PROFESSIONAL is not obligated to indemnify and hold harmless CLIENT for CLIENT'S active or sole negligence or willful misconduct.

**IMPORTANT NOTICE:** This information is not legal advice. Legal advice may be only obtained from an attorney. IOA Insurance Services risk management resources have been prepared solely for the purpose of sharing general information regarding insurance and practice management issues and are not intended to constitute legal advice or a determination on issues of coverage. IOA makes no representations about the accuracy, completeness, or relevance of this information.