

CASE #8 - An Agreement Between Client and Specialty Structural Engineer for Professional Services

ABSTRACT

When structural engineering services are provided to a contractor or a sub-contractor for work to be included in a project where you are not the Structural Engineer of Record, but you are a specialty structural engineer. Your contractual relationship differs from the norm and the typical contract forms will not suffice. The CASE #8 document is tailored to this particular situation.

As of 2015, the document was legally reviewed and the following changes were made:

1. In 1.3.3 added “as limited in this agreement”.
2. Rewrote 5.3.2 and added phrase that indicates SSE will not be responsible for resultant delays.
3. In 6.2.1:
 - a. Combined and rewrote Contractor/SSE mutual indemnification.
 - b. Added sentence indicating that neither party has obligation to defend or pay for defense until one party has been found at fault and then only to the proportion found at fault.
 - c. Added paragraph for indemnification from third party claims. This was added since the original indemnification only dealt with claims from one of the contracting parties.
4. In 6.2.2 Risk Allocation:
 - a. Added “or any third party”. This was done to get the client to limit the SSE’s liability for a third party claim. This is an aggressive approach and has not been tested by case law.
 - b. Expanded language regarding attorney and expert fee costs.
 - c. Removed “or other amount agreed upon” to remove open-endedness.
5. Other minor grammatical modifications.