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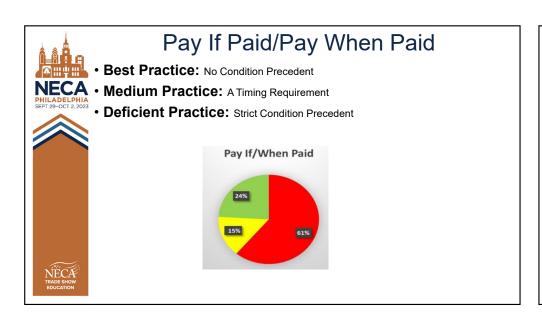
Top 10 Contract Issues for Trade Contractors

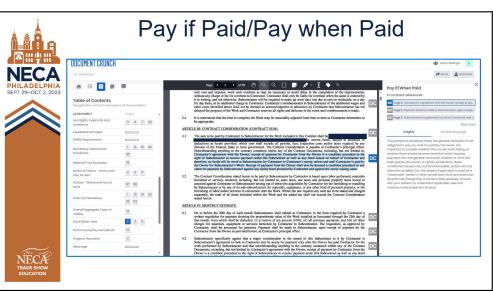
- Pay if Paid/Pay When Paid
- Right to Stop Work
- Consequential Damages
- Liquidated Damages
- Liability Caps

- Indemnity
- Delays
- Subsurface Conditions
- Hazardous Materials
- Design Responsibility

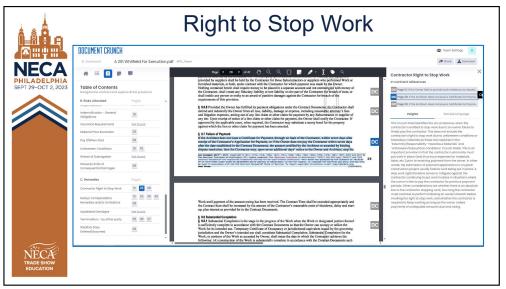




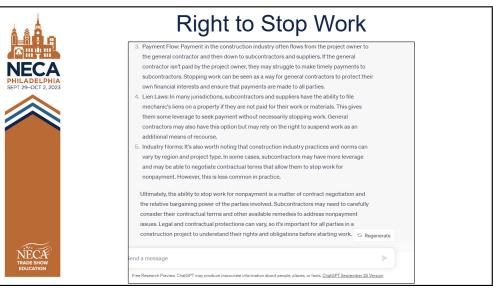


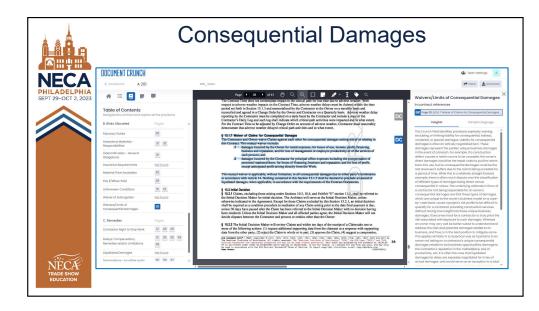


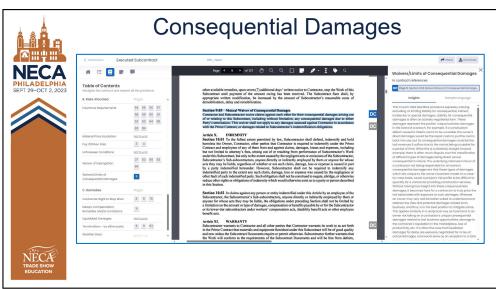










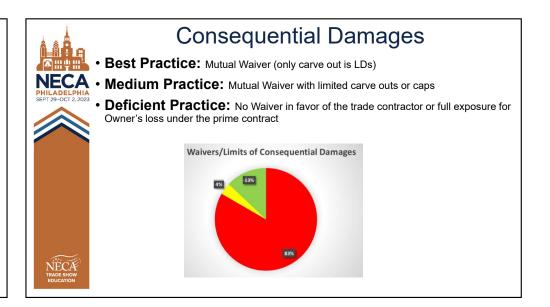




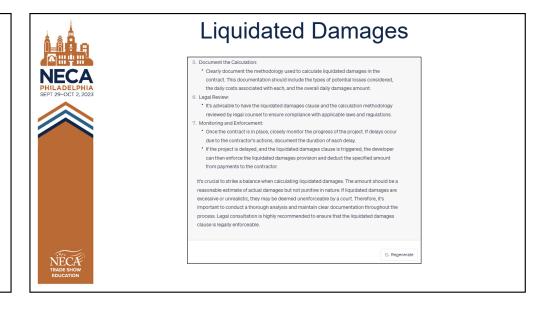
Consequential Damages

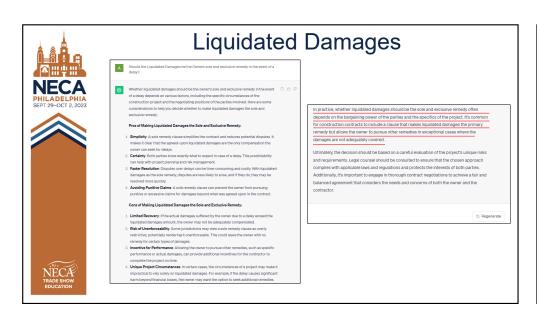
- Best Practice: Mutual Waiver (only carve out is LDs)
- **NECA** Medium Practice: Mutual Waiver with limited carve outs or caps
 - **Deficient Practice:** No Waiver in favor of the trade contractor or full exposure for Owner's loss under the prime contract



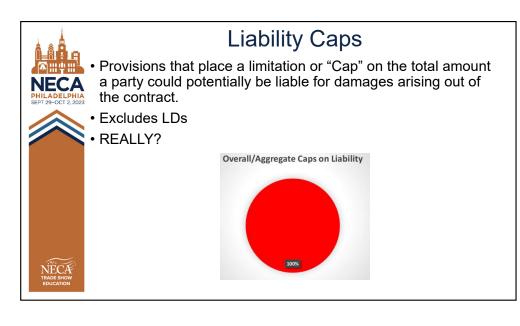


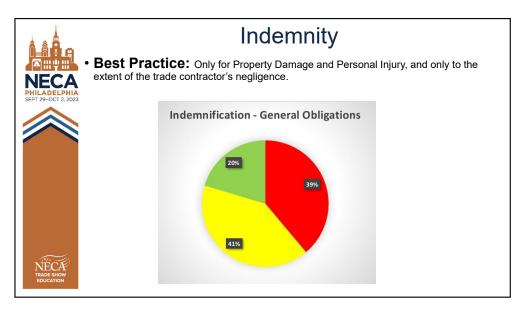


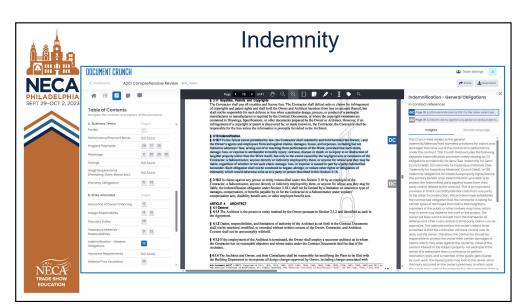


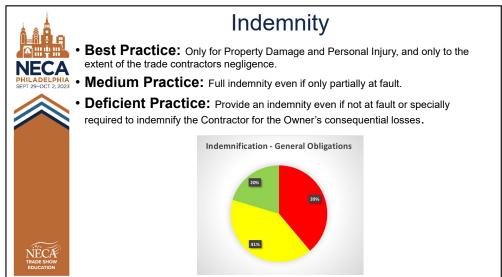






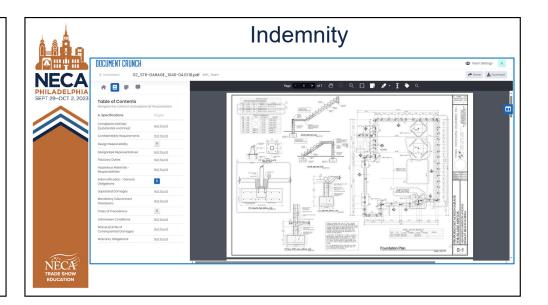


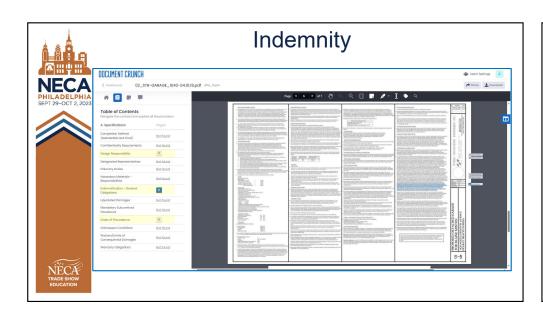


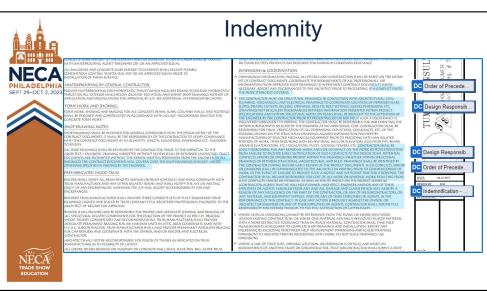


Indemnity

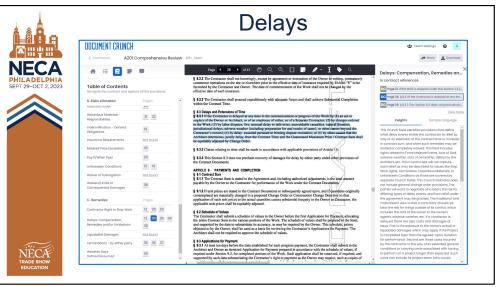
Subcontractor hereby agrees to indemnify, defend and hold harmless Contractor, Owner and their respective officers, representatives, employees and agents from any claim, liability, damage, loss, injury, expense, SEPT 29-OCT 2, 2023 penalty, fine, judgment or cost (including, but not limited to, reasonable attorney's fees in arbitration, court proceedings or appeal) arising out of, in connection with, or in any manner pertaining to this Agreement or the Work hereunder, caused in whole or in part by any act, omission or default of Subcontractor or any of Subcontractor's sub-subcontractors or suppliers of any tier, or their respective employees or representatives, whether or not caused in part by any act, omission or default of Contractor or any other party indemnified hereunder. However, this Agreement shall not be construed to indemnify any party against that party's own gross negligence or willful, wanton or intentional misconduct or for statutory violation or punitive damages, except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of Subcontractor or any of Subcontractor's subsubcontractors or suppliers of any tier or their respective employees or representatives. To the extent Subcontractor's indemnification obligation hereunder requires Subcontractor to indemnify any party against any claim, liability, damage, loss, injury, expense, penalty, fine, judgment or cost caused, in whole or in part, by such party's act, omission or default, such indemnification obligation shall not exceed the combined sum of the Contract Sum of this Agreement, and the limits of Subcontractor's General Liability Insurance required under this Agreement, which sum Contractor and Subcontractor hereby acknowledge bears a reasonable commercial relationship to this Subcontract. Contractor and Subcontractor further acknowledge that this Agreement of Indemnification shall be deemed a part of the bid documents and project specifications













Delays



Subcontractor shall not be entitled to any claim for damages on account of hindrances or delays from any cause whatsoever, but should Subcontractor be delayed in the prosecution or completion of the Work by, among other things, the act, neglect or default of Contractor or of any person employed by Contractor upon the Work, or site conditions, subsurface conditions, permitting conditions, or by any damage caused by fire or other casualty in no way caused by or resulting from default or collusion on the part of Subcontractor, then the time herein fixed for the completion of the Work shall be extended for a period equivalent to the time lost by reason of any or all such occurrence, which extended period shall be determined and fixed by Contractor, but no such allowance shall be made unless a claim therefore is presented in writing to Contractor within forty-eight hours of the commencement of such delay. Such extensions of time shall be Subcontractor's sole and exclusive remedy for any such occurrence and Contractor shall be released and discharged of and from any claims which Subcontractor may have on account of any cause of delay, whether or not specifically stated herein.

• Compare with "other causes beyond the Contractor's Control" from AIA Prime Contracts.





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