**Dirty (1/2) Dozen Contract Terms**

1. **Warranty**
   1. Needs objective, definable end date (i.e., definite end date or X months after shipment)
   2. Needs to be for equipment only
      1. Beware of reps & warranties
   3. Beware of evergreen warranty for repairs
   4. Standard disclaimers
      1. Damages caused by storage, installation, operation, and/or maintenance not in accordance with our written instructions
      2. Damages due to normal wear and tear, accident, misuse, abuse, neglect, or corrosion
      3. Push/pull
      4. Stated warranties are exclusive and in lieu of all other warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose
2. **Payment Terms**
   1. No pay when/if paid
   2. Beware of double retainage
   3. Payments should be tied to only our actions
   4. Beware of final payments going out too long
3. **Incorporation of Prime Contract/Specifications**
   1. Do not agree to wholesale incorporation
   2. Require specific provisions to be listed and negotiated
   3. Know what we are agreeing to
4. **Dispute Resolution**
   1. Needs to be a fair and neutral tribunal (can be court or arbitration at jobsite – except Louisiana and Quebec)
   2. Waiver of jury trial
   3. No advance agreement to be joined in other actions
   4. Avoid continuing performance obligation
5. **Indemnity**
   1. General Indemnity
      1. To the extent and proportion of our negligence
      2. For third party claims only (no breach of contract claims)
      3. Third party claims for bodily injury, death, and damage to tangible property (other than the goods themselves)
      4. Claims must be related to our work
      5. No defense obligation
      6. Beware of waiver of Workers’ Comp. immunity
   2. IP Indemnity
      1. We want to defend these claims (therefore, no need for indemnity for legal fees or costs)
      2. Standard disclaimers
         1. Must notify us promptly of action so we can defend
         2. Goods must be used in manner specified
         3. Goods not altered, modified, or combined with other goods without our prior, written consent
   3. Other Indemnity
      1. Initially take exception for indemnity for violation of laws, liens, and hazardous wastes (all are breach of contract claims)
      2. No defense obligation
6. **Limitation of Liability**
   1. Overall cap on liability no greater than 100% of contract price
   2. Beware of carve outs