**LEGITIMATE DEFENSE STATEMENT**

FROM: DATE:

TO:

NOTE: HAND DELIVER NOTICE TO EITHER THE EXPOSING CONTRACTOR OR THE GENERAL CONTRACTOR WHO IS RESPONSIBLE FOR THE CONDITIONS OR SITE:

WHO DELIVERED TO: DATE/TIME:

The following hazard(s) were not created by this company. It is our goal not to subject our employees to job hazards which may injure the employee. The responsibility for correcting this (these) item(s) appears to be within the scope of your work. Furthermore, because of the scope limitations of each contract it is our opinion that we do not have the ability to correct or remove the noted hazard(s):

We have instructed our employees on (date) warning them of the above hazards, and specifically instructing them how to avoid the dangers associated with the above hazards.

**NOTE: WHEN EXTREME CIRCUMSTANCES JUSTIFY IT, EMPLOYEES SHALL BE REMOVED FROM THE JOB TO AVOID INJURY.**

Sincerely,

NOTE: A COPY OF THIS STATEMENT WILL REMAIN ON FILE UNTIL HAZARD(S) NOTED ABOVE ARE CORRECTED.

**Multi-employer Citation Policy:** *This is based on OSHA Directive**CPL 02-00-124 Multi-Employer Citation Policy*

Multi-employer Worksites. On multi-employer worksites (in all industry sectors), more than one employer may be citable for a hazardous condition that violates an OSHA standard. A two-step process must be followed in determining whether more than one employer is to be cited.

Step One. The first step is to determine whether the employer is a creating, exposing, correcting, or controlling employer. The definitions included in the paragraphs below explain each. Remember that an employer may have multiple roles. Once you determine the role of the employer, go to Step Two to determine if a citation is appropriate (NOTE: only exposing employers can be cited for General Duty Clause violations).

Step Two. If the employer falls into one of these categories, it has obligations with respect to OSHA requirements. Step Two is to determine if the employer's actions were sufficient to meet those obligations. The extent of the actions required of employers varies based on which category applies. Note that the extent of the measures that a controlling employer must take to satisfy its duty to exercise reasonable care to prevent and detect violations is less than what is required of an employer with respect to protecting its own employees.

**The Creating Employer**

Step 1: Definition: The employer that caused a hazardous condition that violates an OSHA standard.

Step 2: Actions Taken: Employers must not create violative conditions. An employer that does so is citable even if the only employees exposed are those of other employers at the site.

**The Exposing Employer**

Step 1: Definition: An employer whose own employees are exposed to the hazard.

Step 2: Actions taken: If the exposing employer created the violation, it is citable for the violation as a creating employer. If the violation was created by another employer, the exposing employer is citable if it (1) knew of the hazardous condition or failed to exercise reasonable diligence to discover the condition, and (2) failed to take steps consistent with its authority to protect is employees. If the exposing employer has authority to correct the hazard, it must do so.

**The Correcting Employer**

Step 1: Definition: An employer who is engaged in a common undertaking, on the same worksite, as the exposing employer and is responsible for correcting a hazard. This usually occurs where an employer is given the responsibility of installing and/or maintaining particular safety/health equipment or devices.

Step 2: Actions taken: The correcting employer must exercise reasonable care in preventing and discovering violations and meet its obligations of correcting the hazard.

**The Controlling Employer**

Step 1: Definition: An employer who has general supervisory authority over the worksite, including the power to correct safety and health violations itself or require others to correct them. Control can be established by contract or, in the absence of explicit contractual provisions, by the exercise of control in practice.

Step 2: Actions Taken: A controlling employer must exercise reasonable care to prevent and detect violations on the site. The extent of the measures that a controlling employer must implement to satisfy this duty of reasonable care is less than what is required of an employer with respect to protecting its own employees. This means that the controlling employer is not normally required to inspect for hazards as frequently or to have the same level of knowledge of the applicable standards or of trade expertise as the employer it has hired.