

**NOTICE OF INSURANCE REQUIREMENTS AND
CONTRACTOR'S RESPONSIBILITY AGREEMENT**

OWNER:

S&W Ready Mix Concrete Company, LLC

217 Lisbon St. Clinton, NC 28328

(910) 592 - 0180 x 32

CONTRACTOR:

Owner's Description and the Location of Work to be done (if different from above location):

CHIPPING OF READY MIX DRUM

ALL S&W READY MIX CONCRETE PLANTS

WHEREAS, Contractor wishes to perform work and/or furnish materials to Owner at the work location noted above. NOW THEREFORE, in consideration of granting Contractor the contract to perform the above noted Work at a mutually agreed upon price, the parties agree as follows:

1) Insurance and Protection of the Work and Property (the Required Insurance)

a) During the performance of the Work, Contractor shall maintain and keep in force, at its own expense, the following Required Insurance coverage and minimum limits:

i) Commercial General Liability

\$1,000,000 each occurrence

\$1,000,000 personal and advertising injury

\$2,000,000 general aggregate

\$1,000,000 products-completed/operations aggregate

ii) Business Auto

\$1,000,000 combined single limit (ea incident)

iii) Worker's Compensation/Employer's Liability

Bodily injury limits as required by Owner;

-Bodily injury by accident - \$500,000 each accident

-Bodily injury by disease - \$500,000 each employee

-Bodily injury by disease - \$500,000 policy limit

b) Contractor will provide Owner a Certificate of Insurance with Owner named as additional insured prior to commencement of Work. An endorsement affording 30 days prior notice to the Owner by certified mail in the event of cancellation, non-renewal, modification, or reduction of coverage in the Required Insurance will be a provision stated on the face of the Certificate of Insurance.

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CONTRACTOR'S RESPONSIBILITY AGREEMENT**

- c) The failure of the Owner to demand Certificates of Insurance and endorsements evidencing the Required Insurance or to identify any deficiency in Contractor's coverage based upon the evidence of insurance provided by Contractor will not be constructed as a waiver by Owner of the Contractor's obligation to procure, maintain and pay for the Required Insurance. Notwithstanding any provision to the contrary contained herein, any waiver of the Required Insurance, including, without limitation, the amount or extent of coverage, may only be obtained by the prior written consent of Owner.

2) Compliance with Laws.

Contractor will carefully check the scope of the Work for conformity with all local, state and federal laws, codes, rules and regulations bearing on the Work (hereinafter collectively called "Law") before commencing the Work. Unless Owner otherwise agrees in writing, before commencement of the Work, Contractor will obtain at its sole cost and expense all permits necessary for the Work. Contractor will comply with product manufacturer's specifications and will give all notices and comply with all Law bearing on the Work, including by way of enumeration and not limitations, safety and health rules and regulations established by or pursuant to the Federal Occupational Safety and Health Act of 1970, and Contractor at all times will furnish to its agents and employees a safe place of employment. If Contractor observes any violation of Law, it will immediately report such violation to Owner in writing. Contractor will be responsible for any fines, charges, or penalties related to the Work, including, without limitation, fines, charges and/or penalties related to the operation of equipment, the Contractor's performance of the Work, the handling of materials or any other function that is a violation of the Law. Furthermore, Contractor will be responsible for any fines, charges or penalties related to the Work that may be imposed upon the Owner due to the Contractor's failure conform to the Law. All workmanship and materials will conform to Law and, if Contractor performs or permits the performance of any Work not in compliance with Law, it will immediately cause such Work to be redone and bear all cost in connection therewith. The Work as performed, will meet with the approval of, and pass any inspection of, any governmental authority having jurisdiction thereof. No work will be deemed complete until final inspection is made and approval is received from every governmental authority whose approval is required.

- a) The Occupational Safety and Health Administration ("**OSHA**") has promulgated regulations ("**Regulations**") that may apply to the Contractor in the performance of the Work.

Contractor agrees as follows:

- i) Contractor will fully comply with the Regulations and will cooperate with Owner and all subcontractors of Owner in order to assure compliance with the Regulations.
- ii) Contractor hereby accepts full responsibility and liability for the training of its employees as to all precautionary measures necessary to protect such employees during both routine and emergency situations that might arise.
- iii) Contractor will indemnify, defend and hold Owner harmless of and from all Claims, damages, liabilities, and causes of action that arise from the failure of Contractor to comply with the Regulations, even if Owner itself has failed to comply with the Regulations or has been negligent.

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- iv) Contractor will assist Owner in complying with the Regulations
- v) Contractor will not use any chemicals in its performance of the Work for Owner or incorporate any chemicals into materials or products supplied to Owner or to the Work locations unless Contractor has given Owner prior written notice of the existence and the possible exposure to such chemical, has delivered a Material Safety Data Sheet, and has received a written consent of Owner to use such chemicals.

3) Indemnity and Release

Contractor recognizes that accidents and other problems may occur while its Work is being performed. Contractor also recognizes that because of such problems, Claims may be made against Owner or others. Because Contractor and Owner intend that Contractor will be solely responsible for the supervision of its Work and all consequences of the Work, Contractor agrees to the fullest extent permitted by law to indemnify, defend, protect and hold the Indemnified Parties (as hereinafter defined) harmless from any and all Claims. The Indemnified Parties are Owner, the owner of the location if other than Owner, all subsidiaries, divisions, partners, parent and affiliated companies of Owner, and all such parties' representatives, partners, designees, officers, directors, shareholders, employees, agents, successors and assigns, and any lender of Owner with a security or collateral interest in the Work (hereinafter referred to individually as an "Indemnified Party"; and collectively as the "Indemnified Parties"). This means that Contractor will pay any attorneys' fees and expenses that the Indemnified Parties pay to defend themselves from any Claims and that Contractor will also pay, on the Indemnified Parties' behalf, any judgment rendered against the Indemnified Parties or any sum that the Indemnified Parties agree to pay in settlement of any Claims. This is so even if Contractor has provided worker's compensation or other benefits to an injured worker, and even if an Indemnified Party was strictly liable for the Claim or was negligent itself. Contractor understands and acknowledges that the Indemnification and defense obligations under this agreement extend to and include claims arising from the active or passive negligence or strict liability of the Indemnified Parties but do not include claims that are finally determined to result from the sole negligence or willful misconduct of the Indemnified Party.

As used in this Agreement, a "Claim" or "Claims," as the case may be, means any and all claims (including without limitation, claims for bodily injury, financial loss, death, or damage to property), demands, causes of action, lawsuits, liabilities, losses, obligations, damages, actions, fines, penalties, cost and expenses (including but not limited to attorney's fees, court cost and all other professional, expert or consultants' fees and costs), arising from or directly or indirectly related to the Work.

A Claim that results in any manner from the Work (including but not limited to defects in workmanship, materials, and/or design defects, if the defects was that of Contractor or its agents), or from the presence of an employee, subcontractor, supplier or other worker or representative of Contractor on the location, or from activities conducted by or on behalf of Contractor on the locations (including but not limited to the negligent and/or willful acts, errors and/or omissions of Contractor, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors or anyone employed directly or indirectly by any of them or for whose acts they may be liable), arises from Contractor's work.

The duty to defend under this Section 3 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of Contractor or any Indemnified Party. The duty to defend arises immediately upon presentation of a Claim by any party and written notice of such Claim being provided to Contractor. Contractor's obligation to indemnify and defend under this Section 3 will survive the expiration or earlier termination of the Work until it is determined by final judgment

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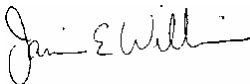
that an action against the Indemnified Party or Indemnified Parties for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations. Under no circumstances will the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder.

Contractor also hereby releases Owner and all other Indemnified Parties from any liability to Contractor because of a Claim other than a Claim or Claims that are finally determined to result from the sole negligence or willful misconduct of the Indemnified Party. This means that Contractor never will ask or sue Owner or any other Indemnified Party for compensation, reimbursement, or contribution because of a Claim released here. Contractor also hereby agrees that it will not assign its right to sue Owner or any other Indemnified Party to any other party.

If the provisions of this Section 3 violate the statutory or common law of the applicable state or governing authority, this Section 3 will not be stricken or found to be void in its entirety. Rather, Contractor's indemnification obligations will apply to the fullest extent permitted by applicable law. Therefore, for example only, should applicable state law only permit indemnification for comparative negligence, then this Section 3 will mandate that Contractor defend, hold harmless and indemnify the Indemnified Parties for all damages arising from Contractor's negligence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 20__.

OWNER:
S&W READY MIX CONCRETE
COMPANY, LLC

By: 

Name: Jamie Williams

Title: Safety Manager

CONTRACTOR:

By: _____

Name: _____

Title: _____