



MASTER TRUCKING AGREEMENT
2018

THIS CONTRACT is entered into by and between **Ajax Paving Industries of Florida, LLC**, a Florida corporation ("Contractor"), and _____ ("Subcontractor").

RECITALS

- A. Contractor is engaged in construction operations and desires to contract with Subcontractor to haul and deliver such materials and debris related to those operations.
- B. Subcontractor owns and hires motor vehicles and drivers suitable for the transportation of the mentioned materials and desires to contract with Contractor for the hauling and delivery of such materials.
- C. Subcontractor represents that its drivers are capable and experienced in the hauling and delivering of such material.

For good and valuable consideration, Contractor and Subcontractor mutually agree as follows:

Section I

Tender of Materials: Acceptance of Tender

- a. From time to time, Contractor may tender to Subcontractor loads of construction materials (called "materials"), for delivery and/or transport by Subcontractor, which tender shall be in the form of a ticket specifying the place to which, and the person or party to whom, such materials are to be delivered. After the materials are loaded on said vehicle, Subcontractor accepts full responsibility for their delivery and, in the event said load is not delivered as specified, then Contractor may charge to account of Subcontractor the value of said load.
- b. The hauling or delivery of such load or loads by Subcontractor shall be performed under, and in accordance with, the terms and provisions specified, in this Contract.
- c. This Contract shall not be construed to obligate or require Contractor to tender to Subcontractor any specified amount of materials or number of loads for hauling during any given period. The Contract also shall not be construed to obligate or require Subcontractor to accept any amount of material or specified number of loads during any given period. This Contract may be terminated by either party at any time upon the provision of written notice tendered five (5) business days in advance of the effective date of termination.

Section II

Performance of Contract

Contractor agrees to designate to Subcontractor the place at which the vehicle or vehicles of Subcontractor shall be loaded and to furnish all labor and equipment for the purpose of loading such vehicles, and Contractor further agrees to pay Subcontractor for delivering or hauling such load or loads in accordance with the terms and conditions of this Contract.



**Section III
Furnishing of Vehicles**

a. Subcontractor agrees to furnish a vehicle or vehicles in good and safe operating condition, suitable for the hauling of the materials tendered, and to furnish drivers, who are qualified to operate Subcontractor's vehicles, and all gasoline, oil, lubricants, tires, and other accessories to such vehicle or vehicles and to perform all repairs and maintenance. It is expressly understood and agreed that Contractor shall not be responsible or liable to Subcontractor for any of the expense or cost of operation, maintenance, or repairs of such vehicle or vehicles.

b. It is expressly understood and agreed that Contractor shall have no control over the selection of drivers of Subcontractor's vehicles. The full cost and responsibility for recruiting, hiring, firing, terminating and compensating employees and drivers of Subcontractor's vehicles shall be borne by Subcontractor.

**Section IV
Compensation For Hauling**

a. Contractor agrees that it will furnish to Subcontractor two copies of the mentioned ticket with respect to each load tendered to and accepted by Subcontractor. One copy of the ticket will be delivered to the party receiving the load, and one copy of the ticket Subcontractor agrees to have signed by the party receiving the load, as evidence of receipt, and to return it to Contractor.

b. Contractor shall make payment to Subcontractor of the amount due with respect to such load or loads at the rate specified by Contractor. The said payment shall be made within 30 days of Contractor's receipt of Subcontractor's request for payment following completion of the haul.

**Section V
Relationship of Parties**

a. It is declared to be the express intention of each of the parties that the relationship created hereby is one of principal and independent contractor, and Subcontractor shall at all times operate as an independent contractor retained by Contractor to provide the services called for herein.

b. An agent or employee of Subcontractor shall never be deemed to be the employee or agent of Contractor. In this connection, Subcontractor shall have the sole right to hire and fire all drivers, and shall exercise all control, direction, and supervision over said drivers with respect to the physical details of the work to be performed and the manner in which the work is performed.

c. Subcontractor shall remain primarily responsible for the payment of all workers' compensation and medical benefits to and/or on behalf of Subcontractor's employees, subcontractors, and agents, and shall not be entitled to seek contribution for any such payments from Contractor, and Subcontractor further agrees that it will defend, indemnify, release, and hold Contractor harmless from and against any such payments or liability.

d. Contractor shall not have the right to exercise any control, direction, or supervision over the hauling of the materials except as to insistence on the ultimate completed delivery of the materials hauled or to be hauled by Subcontractor.

e. Subcontractor further agrees not to allow drivers to transfer passengers or persons who are not employed by Subcontractor while Subcontractor's trucks are engaged in operations on behalf of Contractor.



**Section VI
Indemnity and Insurance**

Ajax is not responsible and will be held harmless for injuries, accidents or incidents while drivers or passengers are outside of their vehicle.

a. Indemnity; Intent of the Parties — If any provision of this Section VI, Sections b and c, below is determined by a court having jurisdiction to be in violation of applicable law, the court shall be empowered to modify or reform such provisions so that, as modified or reformed, such provision provides the maximum indemnification permitted by law, and such provision, as so modified or reformed, shall be applied in accordance with its terms.

b. Indemnity - For All Private/Non-Governmental Work - As set forth on Exhibit A - the following terms and conditions shall apply:

(1) To the fullest extent permitted by law, Subcontractor shall indemnify, hold harmless, and defend Contractor, the Project Owner, and their parents, subsidiaries, affiliates, officers, directors, agents, employees, and insurers, and all other parties required by Contractor's contract with the Project Owner to be indemnified (the "Indemnitees") from and against all claims, damages, expenses, liabilities, losses, and suits, including but not limited to attorneys' fees, arising out of or resulting from bodily injury or death of any person, or property damage, including loss of use of property, arising or alleged to arise out of or in any way related to this Contract or Subcontractor's performance of the work or other activities of Subcontractor, regardless of whether such claim, damage, expense, liability, loss, or suit is caused, or is alleged to be caused, in whole or in part, by the negligence of any of the Indemnitees, it being the express intent of Contractor and Subcontractor in agreeing to this paragraph that Subcontractor is to indemnify, hold harmless, and defend the Indemnitees from the consequences of their own negligence. The indemnification obligations under this paragraph shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The monetary limitation on the extent of the indemnification provided herein shall be \$1,000,000 or an amount equal to the limits of the required insurance coverage under Section VI of this agreement, whichever is greater. The parties stipulate that this monetary limitation on the indemnification bears a reasonable commercial relationship to this agreement and is part of the project specifications and bid documents, if any.

(2) To the fullest extent permitted by law, Subcontractor shall indemnify, hold harmless, and defend Indemnitees from and against all claims, damages, expenses, liabilities, losses, and suits arising out of or resulting from any infringement or claim of infringement of patents, trademarks, copyrights, or violations of any written confidentiality agreement in the use or sale of articles or materials covered by the contract documents, except articles and materials required in accordance with specifications or designs originating with the owner.

(3) To the fullest extent permitted by law, Subcontractor shall indemnify, hold harmless, and defend Indemnitees from and against all claims, damages, expenses, liabilities, losses, and suits arising out of or resulting from work to be performed by Subcontractor, its subcontractors, agents, or employees under this agreement, arising under any applicable workers' compensation law and for all claims by Subcontractor's employees arising under any other state or federal employment law, including but not limited to the Family Medical Leave Act, the Americans with Disabilities Act, or any harassment or discrimination claim arising under Title VII of the Civil Rights Act of 1964.

c. Indemnity - For All Public Agency/Governmental Work- As set forth on Exhibit A - the following terms and conditions shall apply:

(1) To the fullest extent permitted by law, Subcontractor shall indemnify and hold Contractor and its officers and employees harmless from all liabilities, damages, losses and costs including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Subcontractor or persons employed or utilized by Subcontractor in the performance of this Agreement.



d. Insurance: For all private/non-governmental work and public agency/governmental work, Subcontractor further agrees to secure and maintain, during all times it is engaged in work under this Contract, the following types of insurance coverage and limits of liability with an A- VIII (A- 8) or better (AM Best Rating) carrier, except for Workers' Compensation if covered through a self-insured fund. Subcontractor shall also require the same of its subcontractors:

(1) Commercial Auto Insurance- providing coverage for both damage to property and injury to persons or death, expressly insuring Subcontractor's indemnity obligations referenced in Section VI, Paragraphs b and c above, in an amount not less than \$1,000,000 combined single limit. Policy must include coverage for all owned, non-owned, and hired autos.

(2) Workers' Compensation and Employers' Liability Insurance- including coverage for state statutory benefits with limits of at least \$500,000 per accident for bodily injury by accident and \$500,000 per employee for injury by disease. Subcontractor shall not exclude himself as owner under Workers' Compensation insurance for manual labor.

(3) Commercial General Liability Insurance- this policy shall be written on an ISO occurrence form CG 00 01 12/07 or its equivalent with limits of at least \$1,000,000 per each occurrence and \$2,000,000 aggregate. CGL coverage shall include coverage for the following: premises, operations, products/completed operations, broad form contractual, personal injury and advertising liability, broad form property damage, explosion, collapse and underground (XCU) coverage, and independent contractor's coverage.

(4) Umbrella: Coverage over and above General Liability, Auto Liability and Employers Liability Coverage: at least \$2,000,000 each occurrence.

Subcontractor agrees to name Contractor, the Project Owner, and their parents, subsidiaries, affiliates, officers, directors, agents, employees, and all other parties required by Contractor's contract with the Project Owner to be named as additional insureds (the "Additional Insureds") on Subcontractor's Commercial Auto, Commercial General Liability and Umbrella policies, on a primary and non-contributory basis, to the maximum extent permitted by law. Additional Insured status will be provided using ISO CG 20 10 07 04 and CG 20 37 07 04 or the equivalent for Commercial General Liability and ISO CA 20 48 02 99 or equivalent for Commercial Auto Liability. Subcontractor further agrees to waive subrogation on all of the above-referenced policies. Subcontractor agrees to furnish Contractor with certificates of insurance identifying each insurance carrier, evidencing Subcontractor's compliance with the obligations set forth herein and stating that the coverages afforded under the policies will not be canceled or terminated unless at least 30 days written notice is given to Contractor. Subcontractor further agrees that the insurance provided to Contractor as set forth herein shall not operate to preclude, circumvent or nullify any obligation assumed by Subcontractor in Paragraphs b and c of this Section VI, to indemnify Contractor for any loss or damage sustained to any person or property. The failure of Subcontractor to furnish the required certificates shall not relieve Subcontractor of its insurance obligations under this Contract. Subcontractor shall require its subcontractors to have the Additional Insureds named as additional insureds on the subcontractors' Commercial Auto and Commercial General Liability policies, on a primary and non-contributory basis, to the maximum extent permitted by law, and to waive subrogation on all their above-referenced policies.

**Section VII
Taxes and License Fees**

a. Subcontractor agrees to make all deductions from payments to employees or agents of Subcontractor, for all social security, unemployment or other taxes and deductions. Subcontractor shall make and render, in Subcontractor's name, all applicable reports and payments of such sums so deducted as shall be required by any and all applicable federal and state laws.

b. Subcontractor further agrees to report and pay any and all license and transportation or other privilege taxes due or to become due with respect to performance under the terms of this Contract.



c. Subcontractor represents and warrants to Contractor that the motor vehicle or vehicles used to haul loads under this Contract are registered with the appropriate state and/or local authorities for the maximum weight permitted by law for said vehicle or vehicles. Subcontractor shall indemnify Contractor for any damages suffered by Contractor as a result of the failure of Subcontractor to register said vehicle or vehicles for the maximum weight permitted by law.

**Section VIII
Severability and Waiver**

The partial or complete invalidity of any one or more provisions of this Contract shall not affect the validity or continuing effect of any other provision. The failure of any party to insist, in one or more instances, on the performance of any of the terms, covenants, provisions, or conditions of this Contract, or to exercise any rights therein, shall not be construed as a waiver or relinquishment of such term, covenant, provision, condition or right with respect to further performance.

**Section IX
Compliance with Laws and Safety**

Subcontractor agrees to comply with all rules, ordinances, statutes, regulations, orders, and decrees, which may be issued under any State or Federal statute which is applicable to this Contract, including, but not limited to, all State and Federal Motor Carrier Safety Regulations, where the same are applicable. In addition, Subcontractor agrees to comply with all of Contractor's safety rules and procedures including, but not limited to, the applicable Project Internal Traffic Control Plan (ITCP), which is incorporated into this Contract. Subcontractor further agrees to supply a trucking manager when required by the applicable ITCP.

**Section X
Sub-Subcontractors**

In the event that the Subcontractor utilizes the services of sub-subcontractors, then these sub-subcontractors must be approved by Contractor, in writing, and all sub-subcontract agreements must be substantially similar in form to this Contract and approved by Contractor. In addition, Subcontractor shall be obligated to bind its subcontractors to all of the terms of this Contract.

**Section XI
Choice of Law**

The parties agree that this Agreement shall be governed by the laws of the State of Florida.

**Section XII
Execution of Contract**

This Contract shall be executed by both parties in duplicate, with one original maintained by Contractor and the other by Subcontractor. It is expressly understood and agreed that this Contract supersedes any and all prior negotiations, contracts, and/or agreements, whether oral or written, between the parties hereto with respect to the matters pertaining to the services called for herein.

This written document memorializes the complete agreement between the parties with respect to the services specified herein, and no subsequent oral agreement or conduct of the parties will operate to modify the terms hereof. Any revisions to this Contract must be in writing.

Signature Page to Follow



**Ajax Paving
Industries of Florida, LLC**

An Equal Opportunity Employer

One Ajax Drive • North Venice, FL 34275
Main: 941.486.3600 • Fax: 941.486.3500

The parties have executed this agreement on this the _____ day of _____
20_____.

CONTRACTOR

By: _____

Its: _____

SUBCONTRACTOR

By: _____

Its: _____