

VALIDATED TRAINING PROGRAM AGREEMENT AND REGISTRATION FORM



Company: _____ Company Contact _____
Address _____
City/State/ZIP _____
Phone _____ Facsimile _____
Email _____ Website _____

VALIDATED TRAINING PROGRAM AGREEMENT SECTION 07920 SEALANTS

THIS AGREEMENT, is made as of the _____ day of _____, 20____, between the Sealant Waterproofing & Restoration Institute, a not-for-profit corporation, having its office at 400 Admiral Boulevard, Kansas City, Missouri 64106 ("SWR Institute") and _____, ("Company") a _____ (type of entity) organized in the state of _____, having an address of _____.

WHEREAS, Company desires to apply for the SWR Institute Validated Training Program Seal of Validation; and

WHEREAS, upon satisfaction of the conditions outlined herein, SWR Institute desires to allow Company to use SWR Institute's Validated Training Program Seal for a limited period on or in connection with installation training programs that are determined to conform to certain recognized standards of quality.

NOW, THEREFORE, in consideration of the Agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Company and SWR Institute agree as follows:

1. **Validation.** The term "validation" as used herein shall mean a determination that the installation training program has met the requirements of the SWR Institute Installation Training Program Profile listed below. All training materials shall be in conformance with SWR Institute and or ASTM, Construction Specification Institute (CSI) and other published "Industry Standards" that are acceptable to SWR Institute. The SWR Institute certificate evidencing that an installation training program has been validated shall be called a "Certificate of Validation."
2. **Program Profile.** An installation training program validated by the SWR Institute shall follow CSI's most definitive and appropriate classification. The installation training program validation shall only apply to the CSI classification for the particular installation training program that has been validated.
 - a. An installation training program validated under the SWR Institute Validated Training Program shall include the following components:
 - i. The course shall have an outline and a training manual.
 - ii. The course shall have a test. A passing grade shall be established and will be a requirement for completion of the course. A person not passing the test shall be considered to have participated in the training course, but not to have completed the course.
 - iii. Each course offered shall have a monitor or proctor that is accept-

able to the SWR Institute. Any cost for the proctor shall be borne by the trainer or Company. The training can be video recorded for proctor review off-site if so desired. The monitor or proctor shall be from a list of individuals that are familiar with the subject matter and whose identity has been previously submitted and approved by SWR Institute.

- iv. The format of the all of the courses should cover, at a minimum, basic elements of the trade including:
 1. Overview of the trade that may include the history of the trade, related scopes of work, regional trade differences, tools, accessories, etc. (minimum of 1Hour)
 2. Safety. Including equipment, major causes of accidents related to this scope of work, hazard analysis, and possible OSHA regulations involved in this type of work. (minimum of 1 Hour)
 3. Material science (minimum of 1 Hour)
 4. Video or other demonstration (minimum of 1 Hour)
 5. Quality control/Quality Assurance (minimum of 1/2 Hour)
 6. Plans and Specification overview (minimum of 1 Hour)
 7. Hands on performance of work (minimum of 2 Hours)
 8. Attendee Examination/Course Evaluation (minimum of 1/2 Hour)
- v. Reference materials used for training including videos, books, etc. must be generic if available and be of the most recent publication. All ASTM or other standards or references shall be recognized and be of the latest or current edition.

- b. Company's completed Validation Application shall be reviewed by a committee of SWR Institute consisting of one contractor member, one manufacturer member and one associate member. Each committee member will provide his/her own review analysis. Upon completion, any discrepancies will be discussed and a unified result established, known as the Administrative Version. Committee members are subject to confidentiality and non-disclosure restrictions and may not disclose information contained in Company's Validation Application. In its sole discretion, SWR Institute may elect to have an outside firm approved by SWR Institute review the Company's Validation Application instead of using its committee to review Company's Validation Application.
 - c. Upon completion of the review process, only the Administrative Version form will be scanned for three year electronic storage. All other documents will be shredded for proper disposal. SWR Institute shall promptly notify the Company of the results of the review.
 - d. Any appeal shall be submitted in writing to the validation committee chair person who will then review matters with SWR Institute's Executive Committee for an unbiased decision. Any appeal must include all relevant material and clearly identify the issue(s) that are being appealed. Results of the appeal by the SWR Institute Executive Committee will be forwarded to the Company.
- 3. Duration.** Validation for Company's installation training program shall remain in effect for a period not to exceed five (5) years from the date in which the validation is granted, unless (i) it is terminated earlier as provided herein, or (ii) the installation training program is reformatted by Company in such a way as to affect any of the characteristics of the program validated.
- a. In the event that an Industry Standard is amended, all installation training programs previously validated under that standard may be required, within such period of time as may be established by SWR Institute, to conform with any more restrictive amendment and to be re-validated as a condition of retention of the Certificate of Validation.
 - b. Upon expiration of the validated installation training program, said program must be resubmitted for approval, even if no changes have been made to the installation training program, to determine if the program complies with stated standards of the Validation Program.
 - c. Company's Validation shall terminate immediately upon any of the following events:
 - i. Company fails to comply with any term, provision, condition or covenant of this Agreement.
 - ii. Company ceases business operations.
 - iii. Any petition is filed by or against Company under any section or chapter of the Federal Bankruptcy Act, as amended, or under any similar law or statute of the United States, any state thereof or similar laws of any other country.
 - iv. Company becomes insolvent or makes a transfer or assignment in fraud of creditors.
 - v. A receiver is appointed for Company or any of the assets of Company.
 - vi. Any defacing or alteration of the Seal (as defined herein) or the Certificate of Validation by Company.
- 4. Company's Obligation to Notify SWR Institute of any Material Change in Company's Validation Application; Rescore of Validation Application Following Material Change and Penalty for Failure to Notify of Material Change.**
- a. It will be the responsibility of the Company to continuously monitor and immediately notify SWR Institute of any material change in the information or material provided in the Validation Application.
 - b. Within thirty (30) days of any event or change of situation identified in Section 3 above, Company shall notify SWR Institute in writing of said event or change to the information provided in the Validation Application. The Company shall explain the event or change of situation and provide Company's plan to cure or improve the event or change of situation. SWR Institute's committee shall rescore Company's Validation Application to determine whether the event or change of situation warrants a change to Company's validation. If the event or change of situation results in the failure of Company's previously validated installation training program to satisfy the requirements of the Program Profile as set forth above, then the Company's Validation shall terminate upon SWR Institute's written notification to Company. If the Company's installation training program continues to satisfy the minimum requirements of the Program Profile despite the event or change of situation, then Company shall be allowed to retain its Validation. SWR Institute shall republish any change to Company's validation status as a result of the review as provided herein. For purposes of this Agreement, the failure to provide a monitor or proctor for each installation training program shall be deemed a material change.
 - c. Should Company fail to timely notify SWR Institute of any material change in the information or material provided in the Validation Application and Company's Validation is terminated as a result of said event or changes, Company shall be ineligible to apply for revalidation within two (2) years after the termination of Company's prior Validation.
- 5. Program Review for Validation; Ongoing Monitoring of Training Sessions.**
- a. It will be the responsibility of the Company to provide all of the elements described in the Program Profile for each installation training program submitted for validation to SWR Institute. SWR Institute will assign the program review to a committee or may elect, in its sole discretion, to have an outside firm approved by SWR Institute to review the company's program for conformance and compliance with the required Validation Program Profile.
 - b. After Validation, Company agrees to have each training session proctored/monitored by an individual acceptable to SWR Institute. The proctor/monitor shall be obligated to notify SWR Institute immediately if any of the elements of the Program Profile are not included in any training session or if the training session has not otherwise complied with this Agreement. Should any proctor/monitor of any of Company's training sessions notify SWR Institute that a training session failed to comply with the required Program Profile (as set forth in Paragraph 2), the Company agrees to immediately correct any deficiency and convene a subsequent training session within ninety (90) days from notification from SWR Institute. All participants of the training session that did not contain the required elements of the Program Profile, shall be notified by Company in writing and the Company shall, within ninety (90) days, reschedule a subsequent training session to correct or provide the missing element of the Program Profile to those participants. Failure to convene a subsequent training session or to properly notify those participants of this training session that did not contain all of the elements of the Program Profile shall be grounds for the immediate withdrawal of Validation.

c. After Validation, Company hereby authorizes SWR Institute to publish notice in any form as reasonably determined by SWR Institute of the Validation of Company's installation training program.

6. Certificate of Validation. SWR Institute will issue a Certificate of Validation for each installation training program determined by SWR Institute (or an independent review source as determined by SWR Institute in its sole discretion) to have met the requirements of the applicable Industry Standard(s) for that installation training program as provided herein. The Certificate of Validation shall include the following information.

- a. Date of validation.
- b. Name of company whose Training Program was validated.
- c. Expiration date of validation (5 years from Item "a.")
- d. Specific CSI Section covered in installation training program.

Any defacing or alternation of the Certificate of Validation will be considered a breach of this Agreement.

7. Seal of Validation. SWR Institute grants Company a non-exclusive limited license to use the appropriate Seal of Validation ("Seal") copies of which are attached hereto as Attachment "A", on and in connection with each installation training program for which a Certificate of Validation has not expired. The Seal may be attached to any written public offering (advertisement, press release, brochure, etc.) of the company and must be on at least one. The Seal shall have printed within its face the following:

- a. Date of validation.
- b. Name of company whose Training Program was validated.
- c. Expiration date of validation (5 years from Item "a.")
- d. Specific CSI Section covered in installation training program.

Any defacing or alteration of Seal would be considered a breach of Validation Agreement.

8. Training Certificates. Upon completion of a Validation Training Program, Company may distribute to the trainee who has taken the training course and passed all applicable tests a "Certificate of Completion" that contains the following information:

- a. Date of training
- b. Name of the person completing the training
- c. Name of the Company offering the Validated Training Program
- d. Specific CSI Sections covered in installation training program.

The Certificate of Completion shall contain the Seal.

9. Use of Seal. The Company agrees to display the Seal only on training certificates that meet the criteria of the Validated Program. The Company agrees to alter its Web site resources relative to the validated training programs as soon as reasonably possible but, in any case, no later than six (6) months after validation. Within six (6) months following the date of validation, the Seal must appear in clear and legible form on the Company's training documents. Company further agrees that the Seal may be affixed to any other printed product offering(s) relative to the validated training and that any replication must be unaltered in any way from the original Seal. Noncompliance could result in withdrawal of the Seal of Validation (see Paragraph 11). Upon expiration of validation and/or if the validated program has not been re-validated, the Company shall immediately remove the Seal from its web site and shall also remove the Seal from all printed material no later than one (1) year from the expiration date of validation.

10. Misuse of Seal or Certificate of Validation. If SWR Institute, in its sole judgment, determines that Company has misused the Seal or Certificate of Validation, SWR Institute may immediately withdraw the Seal and Certificate of Validation and the Company's right to use the Seal and Certificate of Validation. As used herein, the term "misuse" shall include, as examples but not by way of limitation, the following:

- a. Any misrepresentation of the Seal or Certificate of Validation as signifying anything other than as provided herein.
- b. Any use of the Seal, Certificate of Validation or a facsimile thereof in connection with any installation training program of which has not been validated, such as displaying a facsimile of the Seal in advertising literature that refers to non-validated installation training program and fails to state clearly and conspicuously that the Seal applies only to those installation training programs that are validated.

11. Withdrawal of Validation. If at any time SWR Institute determines, as provided above, that Company has misused the SWR Institute Validation Program or failed to comply with Company's obligations contained herein, the Certificate of Validation and/or the Seal in any way including but not limited to those acts set forth in Paragraphs 3 and 10, the Certificate of Validation issued under Paragraph 6 shall be withdrawn and the Company shall cease all use of SWR Institute's Seal of Validation and the Certificate of Validation. Such certificate and rights shall not be reinstated until SWR Institute, in its sole judgment, is satisfied that the misuse has ceased and that it shall not reoccur.

12. Transfer of Training Validation. Only the company stated in this agreement shall be allowed to represent that their training program has been validated as described herein. Validation of this installation training program is not transferable from the company stated in this agreement.

13. Withdrawal from the Validation Program. SWR Institute reserves the right, without any liability to anyone, to change the terms and conditions governing validation and use of the Seal from time to time. Company shall abide by such changed provisions upon receipt of notice thereof or otherwise withdraw entirely from the SWR Institute Installation Training Validation Program by surrendering its Certificate of Validation and foregoing the right to use the Seal or facsimile thereof in any way.

14. Authority. The parties hereto certify by the signatures below of their authorized agent that they have read this Agreement, understand all its provisions and agree to abide by them.

15. Hold Harmless and Indemnity. Company shall hold SWR Institute, its officers, directors, members, guests, employees, agents, and any other entity acting for or on its behalf (hereafter referred to collectively as its "Affiliated Persons") free and harmless and agrees to indemnify SWR Institute and its Affiliated Persons from any claim, loss, cost, liability, damage or cause of action that may occur whatsoever (including all costs, expenses, legal fees and expert fees) from or in any way related to this Company's use of Certificate of Validation or the Seal, or the Company's participation in any manner with respect to this Validation Program. Company further holds SWR Institute and its Affiliated Persons free and harmless and agrees to indemnify SWR Institute and its Affiliated Persons from any claim, loss, cost, liability, damage or cause of action that may occur whatsoever (including all costs, expenses, legal fees and expert fees) from or in any way related to or from any person who participated in any training program sponsored by Company or from any third party concerning any of Company's training programs.

16. Miscellaneous. The provisions, covenants and conditions of this Agreement shall bind and inure to the benefit of the legal representatives, heirs,

VALIDATED TRAINING PROGRAM AGREEMENT *(continued)*

successors and assigns of each of the parties hereto, except that no assignment by Company shall be allowed and that no attempted assignment by Company shall vest any right in the assignee of the Company. Any waiver by SWR Institute of any breach or breaches, default or defaults of Company hereunder, shall not be deemed or construed to be a continuing waiver of such breach or default nor as a waiver of or permission expressed or implied, for any subsequent breach or default. This Agreement, the Validation Application and any attachments thereto contain the entire agreement between the parties and except as specifically provided herein, no modification of this Agreement shall be binding upon the parties unless evidenced by an agreement in writing signed by the parties hereto after the date hereof. The Agreement shall be construed and interpreted according to the laws of the State of Missouri, notwithstanding the operation of any conflict or choice of law statutes or decisional law to the contrary. Exclusive jurisdiction and venue shall be in the Federal or State Courts in Jackson County, Missouri.

17. Disclaimer. The Validation Program was developed by industry representatives as an aid to providers of certain industry services so that they have a better opportunity to facilitate training for installation of certain types of materials. The SWR Institute and its Affiliated Persons have merely made available a format to validate that a company has included a minimum set of criteria in its training program for the installation of certain materials. Accordingly, SWR Institute and its Affiliated Persons cannot accept responsibility for the accuracy of the information and representations made by the Company, the qualifications of Company's employees or the actual ability of the Company to properly perform the work task in all situations and under all circumstances.

Dated this _____ day of _____, 20____.

[Print Company name above]

By: _____
Signed by President or other Authorized Representative

Printed Name of Person Signing:

Title of Person Signing:

Sealant, Waterproofing & Restoration Institute

By: _____

Printed Name: _____

Title: _____

DISCLAIMER

This program was developed by industry representatives as an aid to providers of certain industry services so that they have a better opportunity to facilitate training for installation of certain types of materials. The SWR Institute and its Affiliated Persons have merely made available a format to validate that a company has included a minimum set of criteria in its training program for the installation of certain materials. Accordingly, SWR Institute and its Affiliated Persons cannot accept responsibility for the accuracy of the information and representations made by the Company, the qualifications of Company's employees or the actual ability of the Company to properly perform the work task in all situations and under all circumstances.

SEALANT, WATERPROOFING & RESTORATION INSTITUTE

400 Admiral Blvd.

Kansas City, MO 64106

816.472.7974 Fax: 816.472.7765

www.swrionline.org

METHOD OF PAYMENT:

SWR Institute Members

Cost: (# of Programs) x \$450.00 = \$ _____

Non-members

Cost: (# of Programs) x \$1,200 = \$ _____

Check enclosed (*Make checks payable to SWR Institute.*)

VISA MasterCard American Express

Card Number _____

Expiration Date _____

Name on Card _____

Authorized Signature _____

CHECKLIST:

- Payment of \$450 for member/ \$1,200 non-member.
- Name of Entity Applying for Validation
- Course Outline in compliance with Requirements
 - 1 hour overview
 - 1 hour safety
 - 1 hour material science
 - 1 hour visual demonstration
 - 1 hour plans and specification review
 - 2 hours hands on installation
 - ½ hour quality control
 - ½ hour testing and evaluation
- Copy of training manual
- Copies of written examinations
- Resumes of training staff
- List of books, videos and other reference materials
- List of individuals to be used as monitors/proctors (submit resumes of proctors/monitors)
- Copy of Certificate of Completion for training.

SWR Institute Headquarters Use Only:

_____ Date Application Received

_____ Date Assigned to Committee

_____ Applicable Fees Paid

_____ Certificate of Validation issued:

Date: ____/____/____; Expiration Date: ____/____/____