



DISASTER RESPONSE RENTAL AGREEMENT - TERMS AND CONDITIONS (rev 2024)

MERSINO DEWATERING, LLC ("MERSINO") and the contracting party herein ("CONTRACTOR") agree that these Terms and Conditions govern the parties' Disaster Response Rental Agreement, and these Terms and Conditions are incorporated by reference into the Agreement, any Proposals, and any Quotes as if fully stated therein. CONTRACTOR acknowledges that it has had an opportunity to inspect the equipment and finds it suitable for its needs and in good condition. Acceptance of any goods or equipment by CONTRACTOR shall constitute acceptance of these Terms and Conditions.

1. PAYMENT. CONTRACTOR agrees to pay the first month of rental in full and in advance via a valid credit card prior to commencement of this Rental Agreement (unless otherwise agreed to in writing). In addition, the first month of fuel charge for all units, delivery charges, incoming freight surcharges (each unit carries a one-time surcharge for mobilization of equipment to the region), and preventative maintenance services (preventative maintenance services are charged separate from rental costs, per unit, every 250 hours, and on a T&M basis, portal-to-portal). Thereafter, all equipment is charged at continuous use rates and additional charges will be invoiced on a T&M basis. Once a unit is called off rent, final charges, which include remaining rent, pick-up freight/delivery, any additional services performed, damages incurred, etc., will be charged to the same credit card first provided by CONTRACTOR. CONTRACTOR SHALL NOTIFY MERSINO IMMEDIATELY OF ANY CHANGES IN CONTRACTOR'S CREDIT CARD VALIDITY. Any invoices which remain unpaid ten (10) days following the date a payment is due will be subject to interest at a monthly rate of 1.5% (18% per annum). CONTRACTOR agrees to review MERSINO invoices promptly and will notify MERSINO, in writing, of any questions or discrepancies within ten (10) days of the invoice date or it shall be deemed to have been approved and CONTRACTOR irrevocably waives the right to dispute same. If an amount remains unpaid after 30 days of CONTRACTOR'S receipt of MERSINO'S invoice, CONTRACTOR agrees to pay all costs of collection, including but not limited to MERSINO'S attorneys' fees, court costs, and repossession costs, if any, in pursuit of same. If CONTRACTOR breaches any provision of this Agreement, becomes insolvent, files for bankruptcy, executes an assignment for the benefit of creditors, ceases doing business, or has a writ of execution or other legal process issued against it or the leased equipment, then MERSINO has the right to enter CONTRACTOR'S premises, or any jobsite upon which MERSINO'S equipment is located, and take immediate possession of the equipment without demand or notice and without court order or other process of law. CONTRACTOR waives any and all damages or claims, including claims of trespass, stemming from repossession, and hereby agrees to indemnify MERSINO of any claims from any third parties (including but not limited to Project Owners) for such repossession. If MERSINO elects to repossess its equipment, it retains the right to pursue any other remedy of default. CONTRACTOR agrees and acknowledges that if it asserts a claim against MERSINO for any reason and is not 100% successful in obtaining the relief sought, including being awarded each and every dollar it asserts it is owed, CONTRACTOR will pay all of MERSINO'S costs and attorneys' fees incurred in the litigation or proceeding, including any appeals.

2. RENTAL RATES/PRICING. The rental rates that are to apply after the stated time frame are based upon three days equaling one week and three weeks equaling one month. Rent will commence upon mobilization of the applicable equipment onto the jobsite and will cease when the equipment is removed therefrom. The rental charge is earned in advance and is due and owing regardless of actual use of equipment for any reason, including breakdown, downtime, change in project plans, termination of CONTRACTOR'S contract with any third parties. MERSINO shall not be held liable for any costs or back charges due to strikes, delays, changed project conditions, differing site conditions, inaccessible job sites, acts of God, inability to obtain permits, force majeure, and/or any other unforeseen conditions. MERSINO will invoice all sales and use taxes applicable to the equipment rented for this project. CONTRACTOR is responsible for all fines, license fees, permits, and all taxes levied while in possession of MERSINO'S equipment. If CONTRACTOR does not return the equipment immediately upon conclusion of the Work, CONTRACTOR shall be responsible for additional rental charges. CONTRACTOR will not tamper with the hour meter attached to any equipment. In the event a meter is not functional, CONTRACTOR shall notify MERSINO immediately. Any unauthorized use of the equipment will result in the equipment being removed by MERSINO. Any responsibility not expressly assumed by MERSINO in these Terms and Conditions should be considered the responsibility of the CONTRACTOR.

3. LABOR: All labor charges are additional charges unless otherwise stated in writing. Lessee will pay the cost of setting up or breaking down any rented items as well as electrical connection and any performance of the system/equipment. All required labor by Lessor will be invoiced on a per-hour basis and will be charged upon actual hours worked, regardless of use of the equipment. Overtime charges apply for any hours in excess of eight (8) hours on a weekday and for any work performed on a Saturday; double-time charges apply for Sundays and holidays. CONTRACTOR shall not make alterations to equipment without authorization from MERSINO.

4. TRUCKING/FREIGHT AND FUEL. Trucking charges are additional to the rental charge unless fully stated otherwise in writing. CONTRACTOR will pay the cost of trucking equipment to and from MERSINO. CONTRACTOR is responsible for loading and unloading equipment. All units will be delivered full of fuel, which will be charged in advance with the first month's rental. CONTRACTOR is responsible for returning any equipment full of fuel, otherwise fuel will be charged at the greater of \$9.50 per gallon or the average fuel rate at the time of filling in order to fill each unit.

5. USE AND MAINTENANCE. CONTRACTOR agrees to keep equipment in good operating condition, repair, and appearance. CONTRACTOR agrees to use equipment as instructed by MERSINO and in the regular course of business, within normal operating capacity, without abuse, and to comply with all laws. CONTRACTOR acknowledges that it is a sophisticated user of the equipment leased. CONTRACTOR will inspect the equipment daily and promptly notify MERSINO of any defects. CONTRACTOR may not remove, alter, disfigure or cover any numbering, lettering or insignia displayed upon the rental equipment and shall not make any alterations to MERSINO'S equipment without MERSINO'S express written consent. CONTRACTOR agrees to furnish all labor and parts required therefor at its expense and will provide preventative maintenance of the equipment while it is in CONTRACTOR'S possession (i.e., oil changes) at its sole expense. In the event that CONTRACTOR is unable to provide preventative maintenance of its equipment due to the existing disaster or any hazardous reasons, it shall ultimately be responsible for all preventative maintenance as set forth herein and will hold MERSINO harmless thereto. MERSINO shall have the right to enter premises where equipment is located to service, inspect, observe, and/or remove it. Lessee is responsible for all damages other than normal wear and will pay all charges (parts, materials, and labor to repair or replace regardless of fault).

6. CONFINED SPACE ENTRY. MERSINO shall not take responsibility for confined space entry.

7. TITLE TO EQUIPMENT. MERSINO has full title to the equipment and under no circumstances shall title pass to CONTRACTOR. CONTRACTOR shall protect and defend MERSINO'S title to the equipment against any outside influences and will keep the equipment free from liens and encumbrances. This equipment will remain the individual property of MERSINO and CONTRACTOR will make this a known public fact to defend MERSINO'S right to the equipment. CONTRACTOR shall immediately notify MERSINO in the event that any of the equipment is levied upon or is about to become liable or is threatened with seizure.

8. GUARANTEE/WARRANTY. MERSINO makes no guarantees as to any outcome or result. The pumping systems quoted are only recommendations agreed to by both parties, based upon the information available to MERSINO at the time this Agreement was written. If additional systems should be required and requested by CONTRACTOR in excess of that which is quoted above, additional systems can be provided at additional costs and only upon written agreement of the parties. Because MERSINO'S equipment is mechanical, operational failure of the equipment is possible. No guarantee is implied or expressly made in this quotation as to the continual operation of any pumping system provided by MERSINO. If uninterrupted operation of the system is critical, the CONTRACTOR must make all provisions necessary to ensure the continued operation of the system. Appropriate pumping redundancy in the form of back-up pumps installed and ready for immediate use are recommended in those scenarios and can be provided by MERSINO at additional cost if agreed to in writing. It is the CONTRACTOR'S responsibility to promptly inform MERSINO of any problems, issues, or concerns with any system.

9. DISCLAIMER OF EXPRESS AND IMPLIED WARRANTIES. MERSINO warrants that it rents its equipment "AS IS" and that it provides its services and equipment based upon the information provided to it by CONTRACTOR. MERSINO has not made and does not make any representation or warranty—express or implied—with respect to the merchantability, condition, fitness for a particular use, quality, durability, or suitability of the equipment for the purposes and uses of CONTRACTOR; does not guarantee any outcome or result as a consequence of its service; and has not made any other representation or warranty of any kind or character, or arising out of any law—with respect to the equipment or services provided. CONTRACTOR hereby waives any claim or right to claim for alleged breach of any implied duty of good faith, reasonableness, care, skill, expedience, or faithfulness. MERSINO will not be liable for damages arising from improper use or malfunction of the equipment. CONTRACTOR acknowledges that it agrees upon the scope of work and proposed services agreed upon herein. Lessee assumes the full risk that the equipment leased will not perform the job for which it was leased, and regardless of outcome will be obligated to pay the lease charge.

10. RISK OF LOSS. CONTRACTOR bears the entire risk of loss of, damage to, or destruction of the equipment from all causes whatsoever during the term of this Agreement and thereafter until redelivery to MERSINO. In the event of loss, damage or destruction of equipment, CONTRACTOR shall pay MERSINO for repair, or if damaged beyond repair shall pay MERSINO the fair market value for the item. Above and beyond these costs and expenses, CONTRACTOR will still be responsible for the rental charges accruing.

11. INDEMNITY. CONTRACTOR shall indemnify MERSINO and hold it and its officers, directors, agents, affiliates, employees, successors, and assigns harmless from any and all claims, liability, damage, or loss, including attorneys' fees, arising out of CONTRACTOR'S use of the equipment, including any failure of equipment to comply with or to be operated in accordance with any and all health and safety standards promulgated by law, including any OSHA regulations. Further, it is the responsibility of the CONTRACTOR to secure the jobsite and the equipment supplied by MERSINO from risk of floods. Further, CONTRACTOR shall, at its expense, defend MERSINO against any and all suits or proceedings brought against CONTRACTOR, alone or in conjunction with others, based in any way upon CONTRACTOR'S use or operation of the leased equipment, including claims of property damage, personal injury, or wrongful death. CONTRACTOR shall satisfy, pay, and discharge any judgments or fines that may be recovered against MERSINO on such claims. This indemnity shall survive the termination of this Agreement.

12. DEFAULT AND ENFORCEMENT. If CONTRACTOR fails to pay any amount due within ten days that it is due; breaches any provision of this Agreement; or becomes insolvent, files for bankruptcy, executes an assignment for the benefit of creditors, ceases doing business, has a writ of execution or other legal process issued against it or the leased equipment, then MERSINO has the right to enter CONTRACTOR'S premises and take immediate possession of the equipment, without demand or notice, and without court order or other process of law. CONTRACTOR waives any and all damages or claims, including claims of trespass, stemming from such repossession. By accepting delivery of the equipment, CONTRACTOR expressly grants MERSINO permission and consent to enter CONTRACTOR'S property in order to retrieve the equipment. MERSINO retains the right to pursue any other remedy. CONTRACTOR agrees and acknowledges that if it asserts a claim against MERSINO for any reason and is not 100% successful in obtaining the relief sought, including being awarded each and every dollar that it asserts it is owed, CONTRACTOR will pay all of MERSINO'S costs and attorneys' fees incurred in the litigation or proceeding, including any appeals.

13. DRAWINGS, DATA, DOCUMENTATION, TECHNICAL INFORMATION - CONFIDENTIALITY. Drawings, data, documentation and technical information provided by MERSINO may indicate general detail only and may not be specific unless certified by MERSINO. The copyright in all drawings, data, and other documentation provided by MERSINO remains vested in MERSINO and may not be copied or used in any connection without the prior written approval. Drawings, data, documentation and technical information regarding pump design and/or application, whether or not written, is regarded as the proprietary and confidential intellectual property of MERSINO. CONTRACTOR expressly agrees to maintain confidentiality and to be accountable for the use of any such information. All concepts or processes supplied by MERSINO or otherwise resulting or developed from the supply by MERSINO remains the exclusive properties of MERSINO.

14. INSURANCE. CONTRACTOR shall be the absolute insurer of the equipment during the term of this Agreement, and agrees that, while in transit to and from CONTRACTOR and until safely returned to MERSINO, to keep the equipment fully insured and to pay all insurance premiums, at its expense, for not less than the replacement value of the equipment as of the commencement date of this Agreement and against all risks, including adequate public liability, bodily injury, and property damage liability insurance. CONTRACTOR shall provide MERSINO with a Certificate of Insurance (COI) with MERSINO'S standard limits prior to the beginning of any work. Lessee is solely responsible for protecting all materials, tools and equipment from damage, theft or loss while Lessor is not on site. In the event of such loss, Lessee agrees to reimburse Lessor for any damage, theft or loss through its insurance premiums or otherwise, and any charges for deductible costs through its insurance company shall be the sole responsibility of Lessee.

15. ENVIRONMENTAL SITES. CONTRACTOR is responsible for informing MERSINO before equipment is delivered to any site where EPA decontamination procedures are required. CONTRACTOR is responsible for the decontamination of all equipment and accessories on any job. If equipment cannot be decontaminated, MERSINO may hold CONTRACTOR liable for immediate payment of fair market value of the equipment.

16. DAMAGES. MERSINO bears no responsibility for damage to existing structures or utilities due to the pumping process or for any damage to residential homes or other buildings due to sewer backups or other problems occurring due to the pumping system. CONTRACTOR agrees and promises that it shall indemnify and hold MERSINO harmless from any and all claims, liability, damage, or loss alleged by third parties, including MERSINO'S reasonable costs and attorney fees incurred in defending against such, arising out of CONTRACTOR'S use of or improper use or malfunction of the equipment or otherwise stemming from any MERSINO equipment, but not limited to, claims for bodily injury, sickness, disease, death, property damage, consequential damages, or other claims. CONTRACTOR shall have the entire risk of loss of damage to, or destruction of the equipment from all causes whatsoever during the term of this lease and thereafter until the equipment has been demobilized from the project site. Further, it is the responsibility of the CONTRACTOR to secure the jobsite and the equipment supplied by MERSINO from risk of floods. MERSINO does not accept back charges as a result of mechanical failures, delays, or any other reasons. System failures as a result of a lack of proper fuel supply or inferior quality fuel are the responsibility of the CONTRACTOR. Subcontractor shall not be liable to CONTRACTOR or others for any indirect, special, liquidated or consequential damages arising out of or in connection with the services provided by Subcontractor due to any alleged cause.

17. NO CONSEQUENTIAL DAMAGES. REGARDLESS OF FAULT OR NEGLIGENCE, MERSINO SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY INDIRECT, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT PROVIDED BY MERSINO, WHATEVER THE ALLEGED CAUSE, INCLUDING BUT NOT LIMITED TO DELAY, FAILURE OF EQUIPMENT, ANY ALLEGED DEFECT IN ANY EQUIPMENT. CONTRACTOR'S SOLE REMEDY IN ANY CLAIM AGAINST MERSINO SHALL BE FOR REPAIR OR REPLACEMENT OF THE EQUIPMENT RENTED.

18. WAIVER. Acceptance by either party of actions in nonconformity of the Agreement or these Terms and Conditions shall not constitute a waiver to subsequently enforce any rights or obligations under the Agreement.

19. CONTRACTOR'S WAIVERS/ABSOLUTE OBLIGATIONS. To the extent permitted by law, CONTRACTOR waives any and all rights and remedies conferred upon CONTRACTOR by law including its rights to (a) cancel the Agreement, (b) repudiate the Agreement, (c) reject the equipment, (d) revoke acceptance of the equipment, (e) recover damages from MERSINO for breach of warranty or for any other reason, and to (f) deduct all or part of any claim of damages resulting from alleged default. CONTRACTOR's obligations under this Agreement are absolute and unconditional, regardless of any alleged breach by MERSINO, and shall not be subject to any abatement, reduction, set-off, defense, counterclaim, or recoupment, for any reason whatsoever.

20. NON ASSIGNMENT. CONTRACTOR shall not assign, transfer, pledge, relet sublet, or hypothecate this Agreement without prior consent of MERSINO. The Agreement shall inure to the benefit of MERSINO, its affiliates, subsidiaries, parent companies (if any), successors, and assigns.

21. CHOICE OF LAW AND FORUM. This Agreement shall be deemed executed in the State of Michigan and shall be interpreted in accordance with the laws of Michigan, regardless of any conflicts of law provision or rules of any state. Any lawsuit brought to resolve a dispute arising from this Agreement must be brought in an appropriate court in Michigan. CONTRACTOR and MERSINO waive any defense that they may otherwise have as to forum non conveniens and waive any objection to personal jurisdiction in the State of Michigan. The parties further acknowledge and express that Michigan is a reasonably convenient place for the trial of any such action.

22. AGREEMENT. This unexecuted agreement is valid for 30 days. By signing either these Terms and Conditions or any preceding pages of this Agreement or by accepting delivery of the equipment, CONTRACTOR specifically acknowledges and agrees that it has received, has read, understands, and agrees to all terms set forth herein and set forth on the preceding pages hereof and that the same are hereby incorporated into the parties' Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior written and oral agreements and understandings between the parties with respect to the subject matter of this Agreement. The parties agree that no administrative codes or statutes not expressly agreed to herein are in any way incorporated into this Agreement and any violation of such shall not constitute a breach of this Agreement. This Agreement cannot be amended except by a written agreement executed by the party or parties to be charged with the amendment. Acceptance of any subsequent revisions or change orders constitutes agreement to pay MERSINO for work actually performed or equipment provided hereunder.

23. HEADINGS. Paragraph headings used to identify this Agreement's provisions do not have substantive meaning or interpretive value and are provided for convenience only.

I UNDERSTAND AND AGREE TO THE ABOVE TERMS AND CONDITIONS AS WELL AS THE ACCEPTANCE OF THE EQUIPMENT AND PRICING SET FORTH HEREIN. I ALSO AGREE THAT THE EQUIPMENT RECEIVED REFLECTS THE PROPER QUANTITIES AND IS IN GOOD WORKING ORDER, AND THAT I HAVE THE AUTHORITY TO ENTER INTO THIS CONTRACT ON BEHALF OF CONTRACTOR AND TO PERFORM ALL OF ITS OBLIGATIONS HEREIN.