



900 N. Squirrel Rd, Suite 210, Auburn Hills, MI 48326

PUMPING SERVICES & EQUIPMENT RENTAL AGREEMENT TERMS AND CONDITIONS

This Agreement is based upon MERSINO providing the above Scope of Work at Contractor's directions and shall be considered a performance agreement. At no time are the terms and conditions of any prime contract or any other agreement other than this Agreement between MERSINO and Contractor incorporated into this Agreement or binding on MERSINO. MERSINO's work is limited to that work set forth in this Agreement or any subsequent agreement between MERSINO and Contractor, and at no time should Contractor assume that MERSINO is quoting Contractor's entire project specifications or any specification other than those set forth herein. This Agreement is based on the information provided by Contractor to MERSINO, and MERSINO has not made any independent verification of such information. If conditions prove to be materially different, MERSINO shall be permitted to submit a request for modification of this Agreement and its pricing and approval by Contractor of such modification shall not be unreasonably withheld.

The stated rental rates that are to apply after the stated time frame are based upon three days equaling one week and three weeks equaling one (28 day) month. Rent will commence upon mobilization of the applicable equipment onto the jobsite and will cease when the equipment is removed there from, regardless of use, delay, or any other factors. MERSINO will invoice all use taxes applicable to the equipment rented for this project. Any responsibility not expressly assumed by MERSINO in this quotation should be considered the responsibility of the contractor/owner. This quotation does not include the cost for any site-specific safety training classes that may be required or special PPE gear for employees, unless otherwise stated above. Any costs incurred relative to these items will be invoiced at a time and materials basis. Any pricing that is quoted as a "per foot" price refers to the amount of service actually installed, NOT the footage of the trench or cut. Unless otherwise specified in the above Agreement, Contractor is responsible for returning the equipment full of fuel. Any equipment not returned full of fuel will be charged for re-fueling at the greater of \$9.50 per gallon or the average fuel rate at the time of filling.

MERSINO makes no guarantees as to the estimated amount of sewerage flow rates, nor does MERSINO guarantee any other outcome or result. The pumping systems quoted are only recommendations agreed to by both parties based upon the estimated flows stated within this Agreement. These flow rates are based upon the information available to MERSINO at the time this Agreement was written. Unless expressly stated above, individual sewer leads are not included in the bypass pumping system Agreement. If additional pumps are required to maintain flow rates in excess of that which is quoted above, or to bypass individual sewer leads, additional systems will be provided at an additional costs upon request by the Customer and upon a signed written modification. This Agreement does not include a professionally engineered design or any P.E. stamped designs and shall not be construed as a design specification agreement, unless otherwise stated in the proposal above and unless MERSINO is paid an additional amount for that specific service. 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.

Due to the sensitive nature of the project, Contractor must make all provisions necessary to ensure the continued flows of the sewer. 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. Similarly, MERSINO can provide continuous on-site monitoring and pump watch services for an additional cost if agreed to in writing. Otherwise, it is understood by the Contractor that once a system is installed and operational, MERSINO will not be on-site at all times and has no obligation to continuously monitor the systems, but rather upon completion of the installation, MERSINO will turn over the daily operation and maintenance to the Contractor for proper care and maintenance of the system. It is the Contractor's responsibility to promptly inform MERSINO of any problems, issues, or concerns with any system.

MERSINO bears no responsibility for damage to existing structures or utilities due to the bypass pumping process or for any damage to residential homes or other buildings due to sewer backups or other problems occurring due to the bypass system. Any soils removed or disturbed during MERSINO's scope of work are not considered debris/rubbish. 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 equipment or otherwise stemming from any MERSINO services including, 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. MERSINO will address and repair any system experiencing mechanical failures, or replace down equipment, as rapidly as practicable. Any measures taken by MERSINO to place a system back into service are done so at an additional cost. System failures as a result of a lack of proper fuel supply or poor quality fuel are the responsibility of the contractor.

The system agreed upon herein is expected to handle the estimated flow rates. In the event that any differing site conditions or unforeseen conditions are encountered (including flow rates at a higher rate than anticipated or any clogging of any flows), MERSINO cannot and does not guarantee that the quoted system will be adequate and a modification agreed to by both parties may be necessary.

Prices are based upon unrestricted operations. 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. If conditions arise

to install more equipment, a mutually agreed upon price schedule must be negotiated before such additional work commences. If MERSINO is delayed in the process of installing or removing the leased equipment and/or any additional labor costs incurred will be billed at our national published rate per man hour. Should the quantity of bypass systems be substantially reduced, MERSINO reserves the right to unilaterally revoke this Agreement and provide a new quotation based upon the revised quantities.

Disclaimer of Express and Implied Warranties: MERSINO warrants that it leases its equipment “as is” and that it provides its services 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—express, implied, 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.

Contractor agrees to pay interest at a monthly rate of 1.5% (18% per annum) on unpaid balances that exceed 30 days from invoice date. If an amount remains unpaid after 30 days of 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. 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. 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. Mersino shall receive final payment, including any retainage, within 90 days of completion of MERSINO’s Work. Contractor agrees that payment from the Owner is not a condition of precedence to Contractor’s obligation for final payment to MERSINO.

No consequential damages: Regardless of fault or negligence, MERSINO shall not be liable to contractor for any indirect, special, liquidates, or consequential damages arising out of or in connection with the services and equipment provided by MERSINO, whatever the alleged cause, including but not limited to delay, failure of equipment, any alleged defect in any equipment or service, inability to lower the groundwater table to a specific depth, or for any other reason. Contractor’s sole remedy in any claim against MERSINO shall be for repair or replacement of the equipment rented under no circumstances shall any damages exceed the cost of MERSINO’s invoiced contract amount.

This Agreement is valid for 30 days. By signing the Terms and Conditions or any preceding pages of this Agreement, or by accepting delivery of equipment or services noted herein, 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 and that the same are 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.

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.

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 arising from this Agreement must be brought in an appropriate state or federal court in Michigan. Contractor waives any defense that it may otherwise have as to forum non conveniens and waives any objection to personal jurisdiction in the State of Michigan. Contractor acknowledges and agrees that Michigan is a reasonably convenient place for the trial of any such action.

Contractor understands and agrees to the above Terms and Conditions as well as the acceptance of the equipment, services, and pricing set forth on the preceding pages.