

CAPITAL PUMPING, LP CREDIT APPLICATION AND TERMS & CONDITIONS OF RENTAL

BUSINESS CONTACT INFORMATION

Customer Name:				
Billing Address:		City:	State:	Zip Code:
Phone:	Fax:		Mobile:	
Accounts Payable Contact:				
Years in Business:	Sole proprietorship:	Partnership:	Corporation:	Other:
Social Security No.:			Tax ID No.:	
Name of Owner(s):				

BANK INFORMATION

Bank name:	Phone:			
Bank Address:	City:	State:	Zip Code:	
Savings Account Number:	Checking Account Number:			

BUSINESS/TRADE REFERENCES

Company name:				
Address:		City:	State:	ZIP Code:
Phone:	Fax:		E-mail:	
Company name:				
Address:		City:	State:	ZIP Code:
Phone:	Fax:		E-mail:	
Company name:				
Address:		City:	State:	ZIP Code:
Phone:	Fax:		E-mail:	

OTHER

PO Number Required: Yes / No	Are there any Judgments against you? Yes / No	Have you every filed bankruptcy? Yes/ No
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AGREEMENT

The undersigned represents that he/she has authority to sign on behalf of Customer, has read the all the terms and conditions contained herein, and that all the information provided is true and correct. The Customer authorizes Capital Pumping to make all inquiries necessary to process this application. Customer further agrees that it will contact Capital Pumping in writing if there is any change in ownership, name, or address. **In consideration of Capital Pumping's extension of credit, Customer agrees to be bound by the Terms and Conditions of Rental on the reverse side of this Application.**

X Signature:	Printed Name:	Date:
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GUARANTY OF PAYMENT

In consideration of the extension of credit to the above applicant, I, the undersigned guarantor, personally guarantee to Capital Pumping, LP the prompt payment of obligations if the applicant shall fail to pay the same. Payment shall be made to Capital Pumping, LP at 3200 Steck Ave., Ste. 220, Austin, Texas 78757. I understand that this guaranty shall be continuing and irrevocable. I hereby waive notice of default or nonpayment, presentment, notice of dishonor as well as any other requirements, covenants or conditions precedent which Capital Pumping, LP might otherwise be required to satisfy or perform under the principles of the law of guaranty in the State of Texas and additionally **WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY CLAIMS BROUGHT AGAINST ME BY CAPITAL PUMPING, LP PURSUANT TO THIS GUARANTY.** I additionally expressly agree that Capital Pumping, LP need not resort to filing suit, securing a judgment or pursuing the Customer or any other person before pursuing me as a guarantor of the Customer's debt. I agree to pay all costs of collection, including attorney's fees and interest at 1-1/2 percent per month on all past due balances.

X Signature:	Printed Name:	Date:
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TERMS AND CONDITIONS OF RENTAL

Capital Pumping, LP, dba Capital Concrete Pumping, ("Lessor") agrees to rent its customer ("Lessee") one or more pieces of equipment and operating personnel, if any, at current schedule rental rates or in accordance with a current quotation, subject to all the terms and conditions herein.

1. OPERATION OF EQUIPMENT. It is expressly agreed by and between the parties hereto that the Equipment and all persons operating, repairing, or maintaining the Equipment are under the exclusive jurisdiction, supervision, and control of Lessee. If Lessor provides an equipment operator, Lessee may reject this operator; however, if the operator is not rejected, Lessee assumes exclusive responsibility for the control and direction of the operator. It shall be the duty of Lessee to give specific instructions and directions to all persons operating, repairing, and maintaining leased equipment. Lessee agrees to provide or otherwise select competent and experienced personnel to direct the operation of the Equipment, and further agrees that the standard of care and responsibilities will be in accordance with ASME B30.27-2014, as amended.

2. LESSEE'S JOB SITE RESPONSIBILITIES. Lessee is solely responsible for the following: a) providing a pumpable concrete mix, in terms of gradation of aggregate and batching of concrete, for the designated placing equipment, b) the addition of any water to concrete, c) providing reasonable scheduling of concrete delivery, d) labor for set-up, breakdown, clean-up and return of system to the pump, e) handling of pumping system while placing, f) grout for priming, g) providing suitable site for setup and cleaning of the pump and system and access to that site (including but not limited to providing shoring, cribbing or other support measures); h) hoisting of system above ground level, and i) the removal of Equipment to stable ground, e.g. by tow truck, winch, etc., due to weather or job site conditions.

3. INDEMNITY. TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LESSOR, ITS PARTNERS, EMPLOYEES AND AGENTS, FROM AND AGAINST ANY AND ALL CLAIMS AND DAMAGES OF EVERY KIND, INCLUDING ATTORNEY'S FEES, FOR BODILY INJURY TO OR DEATH OF ANY PERSON OR PERSONS, INCLUDING BODILY INJURY TO OR DEATH OF AN EMPLOYEE OF LESSEE, ITS AGENT, OR ITS SUBCONTRACTOR OF ANY TIER, AND FOR DAMAGE TO OR LOSS OF PROPERTY, INCLUDING THE EQUIPMENT, ARISING OUT OF OR ATTRIBUTED, DIRECTLY OR INDIRECTLY, TO THE RENTAL, OPERATION OR USE OF THE EQUIPMENT UNDER THIS RENTAL AGREEMENT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE OR CONCURRENT NEGLIGENCE OF LESSOR OR ITS AGENTS. IT IS THE EXPRESS INTENTION OF THE LESSOR AND LESSEE THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS AN INDEMNITY BY LESSEE TO INDEMNIFY, DEFEND, PROTECT, SAVE AND HOLD HARMLESS LESSOR, ITS AGENTS AND EMPLOYEES OF EACH FROM THE CONSEQUENCES OF THEIR OWN NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS GROSS OR ORDINARY AND WHETHER IT IS CONCURRENT, SOLE, OR OTHERWISE. IN ANY AND ALL CLAIMS AGAINST LESSOR BY AN EMPLOYEE OF LESSEE, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY LESSEE OR ANYONE FOR WHOSE ACTS LESSEE MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR LESSEE UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYMENT BENEFIT ACTS. NOTHING HEREIN SHALL BE READ OR CONSTRUED TO REQUIRE THE LESSEE TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE LESSOR, ITS AGENTS OR EMPLOYEES OF EACH, TO THE EXTENT PROHIBITED BY CHAPTER 151 OF THE TEXAS INSURANCE CODE OR CHAPTER 127 OF THE TEXAS CIVIL PRACTICE & REMEDIES CODE. IT IS AGREED THAT WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY AND ENFORCEABILITY OF THE DEFENSE OR INDEMNIFICATION OBLIGATIONS, OR BOTH, UNDER THIS SECTION, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE DEFENSE AND INDEMNIFICATION OBLIGATIONS TO THE MINIMUM EXTENT NECESSARY TO BRING THIS SECTION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS AND, AS SO MODIFIED, THE INDEMNIFICATION AND DEFENSE OBLIGATIONS SHALL CONTINUE IN FULL FORCE AND EFFECT.

4. INSURANCE; WAIVER OF RECOVERY AND OF SUBROGATION. Lessee agrees to purchase the following insurance coverage prior to the Equipment's arrival on the job site: a) worker's compensation and employer's liability insurance, with limits of at least the statutory minimum or \$1,000,000, whichever is greater; b) primary non-contributory commercial general liability insurance on an occurrence basis, including bodily injury and property damage coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; c) excess/umbrella primary non-contributory insurance in the amount of \$2,000,000 and Lessee's primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of Lessor's insurance policies; d) inland marine/all-risk physical damage insurance, on a primary non-contributory basis, to cover the full insurable value of the equipment, including any boom or jib, for its loss or damage from any and all causes, including, but not limited to, overloading, misuse, fire, theft, flood, explosion, overturn, accident, and acts of God occurring during the rental term; e) all policies are to be written by insurance companies acceptable to the Lessor; f) the Lessor and all affiliated partnerships, joint ventures, corporations and anyone else who Lessor is required to name as an additional insured, are to be included as additional insureds on all liability insurance policies to the fullest extent not prohibited by Chapter 151 of the Texas Insurance Code, including excess/umbrella policies (ISO Additional Insured Form CG 20 10 04 13 and ISO Additional Insured CG 20 37 04 13); g) Lessee shall name Lessor as a Loss Payee on all insurance policies, and Lessee shall provide all insurance certificates to Lessor when requested; h) all policies shall be endorsed to require the insurer to give 30 days' advance notice to all insurers prior to cancellation; i) all of Lessor's policies, and the policies of anyone Lessor is required to insure are excess over all of Lessee's policies. In the event of loss, proceeds of property damage insurance on the equipment shall be made payable solely to Lessor. Lessee's agreements to indemnify, defend, and hold Lessor harmless are in addition to, and not an alternative to, these insurance provisions, and the purchase of any of the above coverages shall not operate to waive any of the above indemnities. **LESSEE HEREBY WAIVES AND RELEASES ANY AND ALL RIGHTS OF RECOVERY**

AGAINST LESSOR, ITS PARTNERS, EMPLOYEES AND AGENTS, FOR BODILY INJURY AND PROPERTY DAMAGE AS THE RESULT OF ANY ACT OR OMISSION OF LESSOR OR ITS AGENTS, WHETHER OR NOT ARISING OUT OF THE NEGLIGENCE IN WHOLE OR IN PART OF LESSOR OR ITS AGENTS, COVERED BY INSURANCE, WHETHER REQUIRED HEREIN OR NOT, INCLUDING THE DEDUCTIBLE OR UNINSURED PORTION; AND WAIVES ITS INSURER'S RIGHTS OF SUBROGATION AND ANY AND ALL LIEN RIGHTS (INCLUDING THOSE ARISING FROM WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY POLICIES OR OTHER EMPLOYEE BENEFIT PROGRAMS, COMMERCIAL GENERAL LIABILITY POLICIES, OR SIMILAR POLICIES) WHICH MAY ACCRUE TO IT OR ITS INSURERS. Lessee understands that this waiver shall bind its insurers of all levels, and agrees to put these insurers on notice of this waiver and to have any necessary endorsements added to the insurance policies applicable to this lease.

5. DELAYS, STOPPAGES, AND BACK CHARGES. No back charges shall be charged against Lessor for delays or stoppage which result from a) breach of Lessee's Job Site Responsibilities, as set forth above; b) unpumpable mixes; c) mechanical breakdown or failure of pumping equipment that is caused by difficult or unpumpable mixes; d) for the first (1) one hour of any other mechanical breakdown or failure of the pumping equipment; e) late arrival for a scheduled afternoon pour; f) damage to asphalt; g) strikes, lockouts, acts of God, adverse weather or other causes beyond the reasonable control of Lessor; or h) damage to property beyond curb line. In no event shall back charges accruing exceed the total rental price chargeable by Lessor for that one day period. Back charges and claims for damages resulting from delay due to the fault of the Lessor shall be deemed waived by Lessee unless claim is made in writing to Lessor within 48 hours from the beginning of the delay.

6. CANCELLATION CHARGE. Rentals cancelled without advance notice, will incur a charge of \$225 if the Equipment has arrived at the job site and a charge of \$400 if the Equipment has arrived at the job site and been set up.

7. TAXES. All state/local sales/use taxes are the responsibility of the Lessee. All applicable taxes are to be paid directly to the taxing authorities by Lessee.

8. TERMS OF PAYMENT: Lessee shall pay Lessor all rental payments by the 10th of the month for rentals or work performed in the previous calendar month and agrees to pay all costs of collection, including reasonable attorney's fees, a \$30 service charge for returned checks, and a \$200 lien or bond claim fee, in the event Lessor is required to send notices or make filings to perfect a lien under state law or make a payment bond claim. Lessor, at its option, may require Lessee to make rental payments in advance. All invoices are payable at Lessor's principal office in Austin, Travis County, Texas.

9. JOB SITE CONDITIONS. Lessee represents and warrants that: a) the material placing crew has been trained in the avoidance of concrete pumping hazards, including hose whipping, and has been instructed to maintain a safe and prudent distance from the point of discharge; b) Lessee has performed all necessary inspections and testing to determine the nature of the ground or soil, and that the ground or soil is capable of supporting the Equipment while in operation or otherwise, or Lessee has taken all necessary measures to ensure that these conditions are remedied; c) the operating area it provides for the Equipment is suitable with respect to levelness, surface conditions, support capability, proximity to power lines, excavations, slopes, underground utilities, subsurface construction and obstructions; d) Lessee will not expose any Equipment or persons in or around such equipment to the danger of power lines; e) All power lines in the work area shall be de-energized prior to the Equipment being operated in or around such power line; and f) Even if power lines are de-energized, the Lessee shall keep the equipment clear of such power lines at the distances required by OSHA, ANSI, and any other applicable law or standard.

10. LIMITATION OF WARRANTIES. Lessee acknowledges that the Equipment is of size, design, capacity, and manufacturer selected by Lessee. Lessor has not made, and does not make any representation, warranty, or covenant, express or implied, with respect to condition, quality, durability, or suitability of the leased equipment. Lessor shall not be liable to Lessee for any liability, loss, or damage caused or alleged to be caused, directly or indirectly, by the leased equipment. Lessee acknowledges and stipulates that Lessee is not relying on any representations, statements, or other assertions with respect to the condition of the Equipment, but is relying on Lessee's examination of the Equipment. **Lessee leases the Equipment in its AS IS condition, and WITH ALL FAULTS. LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING BUT NOT LIMITED TO: THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR A PARTICULAR PURPOSE; OR ANY OTHER WARRANTY WHATSOEVER.**

11. WAIVERS. EXCEPT AS PROVIDED IN PARAGRAPH 5 "DELAYS, STOPPAGES, AND BACK CHARGES," LESSEE WAIVES ANY CLAIMS AGAINST LESSOR, AND LESSOR SHALL NOT BE LIABLE, EITHER IN CONTRACT OR IN TORT, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DELAY, LOST TIME, LABOR OR MATERIALS, LOSS OF FUTURE REVENUE, INCOME OR PROFITS, OR ANY DIMINUTION OF VALUE OR MULTIPLES OF EARNINGS DAMAGES, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE OR ARE REASONABLY FORESEEABLE, AND WHETHER OR NOT THE DAMAGES ARE CAUSED IN WHOLE OR IN PART BY LESSOR'S NEGLIGENCE.

12. MISCELLANEOUS. This agreement constitutes the entire agreement between the parties, and shall not be amended or waived, except by a written agreement signed by the parties. No failure on the part of the Lessor to exercise and no delay in exercising any right or remedy hereby shall operate as a waiver thereof; nor shall any single or partial exercise by Lessor of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. This lease shall in all respects be governed by the laws of the State of Texas. Lessee consents to the jurisdiction of the courts of Travis County, Texas. This agreement shall not be construed against or in favor of either party by virtue of its having been drafted by one party or the other.

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PLEASE INITIAL