



**www.americanpumprepair.com**  
**Phone (317)861-6791**  
**Fax (317)861-6846**

McCordsville  
Ref: Bay Creek LS  
Attn: Steve Gipson

3/28/2025

American Pump Repair & Service, Inc. is pleased to propose the following equipment for the above project:

**Qty.**

(1) Labor and materials to replace existing base elbow, guide rails, and necessary piping.

**Net Price: \$14,411.00**

**Note:**

- Customer is responsible for providing a vac truck to clean the station and bypass pumping if necessary to maintain flow.

Thank you,

Elisha Winters

*Elisha Winters*

Sales Engineer  
American Pump Repair & Service, Inc.  
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## STANDARD TERMS AND CONDITIONS Rev. 2.2020

**1. Agreement, Integration and Conflict of Terms.** These terms and conditions, together with any special conditions expressly incorporated in the quotation or proposal govern the Seller and Buyer relationship with respect to the subject matter of the Agreement. "Seller" means American Pump Repair & Service, Inc. that is party to the Agreement. "Buyer" means the customer named in the quotation or proposal that is party to the Agreement. "Agreement" means these terms and conditions, together with all documents, including the accompanying quotation or proposal, any special conditions, and documents referred to or included within the quotation or proposal and expressly made a part of this Agreement. Seller's sale of the goods and/or services set forth on the quotation or proposal are conditioned on Buyer's acceptance of these terms and conditions. Any additional or different terms and conditions contained in Buyer's purchase order or other communication will have no effect on the Agreement unless specifically agreed to in writing by the parties, and any such proposed modifications will not constitute Seller's acceptance of any such modifications. Seller's commencement of performance or delivery will not be deemed or construed as acceptance of Buyer's additional or different terms and conditions outside of this Agreement. This Agreement supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties and, further, can only be altered, modified or amended with the express written consent of Seller.

**2. Quotation, Withdrawal, Expiration.** Quotes and proposals are valid for thirty (30) calendar days from the date of issuance, unless otherwise provided therein. Seller reserves the right to cancel, amend, or withdraw the quotation or proposal at any time with or without notice or cause prior to acceptance by Buyer.

**3. Prices.** Prices apply to the specific quantities stated on the quotation or proposal. Prices do not include shipping or handling fees unless otherwise stated. The price for the goods does not include any applicable sales, use, excise, Goods and Services Tax, Value Added Tax, or similar tax, duties or levies. Buyer will have the responsibility for the payment of all such applicable taxes.

**4. Payment Terms.** Seller reserves the right to require payment in advance or C.O.D. and otherwise modify credit terms should Buyer's credit standing not meet Seller's acceptance. Unless different payment terms are expressly set forth in the applicable quotation or proposal or agreed to by Seller in the relevant purchase order, goods will be invoiced upon shipment. For quotations and proposals with a total value of One Hundred Thousand Dollars (\$100,000) or less, payment in full is due within thirty (30) calendar days from the invoice date, unless otherwise stated in Seller's documentation. For quotations and proposals with a total value of more than One Hundred Thousand Dollars (\$100,000), a payment of twenty-five percent (25%) of the total value is due at the time of release to production, with the remaining payment of seventy-five percent (75%) of the total value due within thirty (30) calendar days from the invoice date. No retainage of payments by Buyer will be accepted by Seller. Start-up services will not be scheduled prior to receipt of full and final payment. Buyer's payment obligations under the Agreement is not contingent or dependent upon Buyer's receipt of payment from any third party. If Buyer fails to make payment when due, Buyer agrees that Seller may apply a service or finance charge of the lesser of: (i) one and one-half percent (1.5%) per month (eighteen percent (18%) per annum), or (ii) the highest rate permitted by applicable law, on the

unpaid balance of the invoice from and after the invoice due date. Buyer is responsible for all costs and expenses associated with any checks returned due to insufficient funds and collection costs and charges, including reasonable attorney's fees, which Seller incurs related to past due amounts from Buyer. All credit sales are subject to prior approval of Seller's credit department. Export shipments will require payment prior to shipment or an appropriate Letter of Credit. If, during the performance of the Agreement, the financial responsibility or condition of Buyer is such that Seller in good faith deems Buyer insecure, Seller may: (a) request financial assurances; (b) suspend performance and will not be obligated to continue performance under the Agreement; (c) stop goods in transit and defer or decline to make delivery of goods, except upon receipt of satisfactory security or cash payments in advance; and/or (d) terminate the order per Article 10. Seller also retains any/all rights to enforce payment defaults to the full price of the work completed and in process. Upon default by Buyer in payment when due, if Buyer fails to immediately and without demand pay to Seller the entire unpaid amounts for any and all shipments made to Buyer, irrespective of the applicable terms and/or contract under which those shipments were as a debt due to Seller, Seller may withhold all subsequent shipments until the full amount is settled. Acceptance by Seller of less than full payment will not be a waiver of any of its rights hereunder. Buyer may not assign or transfer this Agreement or any interest in it, or monies payable under it, without the prior written consent of Seller and any assignment made without this consent will be null and void.

**5. Title, Delivery, Risk of Loss.** Shipping and delivery dates are estimates, and subject to change based on Seller's commitments at the time Buyer accepts the quotation or proposal. Unless otherwise specified by Seller, delivery and transfer of risk of loss for shipments to Buyers will be made Ex Works, Seller's business facility (Incoterms 2020). Title will pass when risk of loss transfers; provided, however, that if Seller warehouses or stores the goods on behalf of Buyer, risk of loss will be borne by Buyer from the start of this period. Seller will not be responsible to Buyer for any loss, whether direct, indirect, incidental or consequential in nature, or for any loss of profits or revenue, or liquidated damages, arising out of or relating to any failure of the goods to be delivered by the specified delivery date. In the absence of specific instructions, Seller will select the carrier. Buyer will reimburse Seller for the additional cost of its performance resulting from inaccurate or lack of delivery instructions, or by any act or omission on Buyer's part. Any such additional cost may include storage, insurance, protection, re-inspection, and delivery expenses. Buyer further agrees that any payment due on delivery will be made on delivery into storage as though goods had been delivered in accordance with the order. Buyer will be the importer of record for any customs clearance. Buyer grants to Seller a continuing security interest in and a lien upon the goods supplied by Seller under this Agreement and the proceeds thereof (including insurance proceeds), as security for the payment of all such amounts and the performance by Buyer of its obligations to Seller under the Agreement and all such other sales, and Buyer will have no right to sell, encumber, or dispose of the goods. Buyer will execute any and all financing statements and other documents and instruments and do and perform any and all other acts and things which Seller may consider necessary, desirable, or appropriate to establish, perfect, or protect Seller's title, security interest, and lien. In addition, Buyer authorizes Seller and its agents and employees to execute any and all such documents and instruments and do and perform any and all such acts and things, at Buyer's

expense, in Buyer's name and on its behalf. Such documents and instruments may also be filed without the signature of Buyer to the extent permitted by law.

**6. Warranty.** Seller warrants that the goods are free from defects in materials and workmanship as set forth in the applicable manufacturer's Certificate of Warranty ("Warranty") furnished to Buyer at the time of final shipment. Seller makes no warranty concerning said equipment beyond that set forth in said certificate and expressly disclaims any warranty of merchantability or fitness for any particular process not described in the applicable drawings and specifications. Seller's sole responsibility with respect to any good which fails to conform with the Warranty is to coordinate with the applicable manufacturer either to replace or to repair the same as set forth in the Warranty. Unless authorized in writing by Seller, Seller is not responsible for any charge or expense incurred for the removal, modification, servicing, or adjusting of goods after delivery to Buyer.

Buyer's failure to comply with Seller's repair or replacement advice will constitute a waiver of Buyer's rights and render all warranties void. Any parts repaired or replaced by Seller under the Warranty are warranted only for the remaining balance of the warranty period. The Warranty is conditioned on Buyer giving written notice to Seller of any defects in material or workmanship of warranted goods within ten (10) business days, or shorter period as dictated by the issue, of the date when any defects are first manifest.

**THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS, OR TERMS OF WHATEVER NATURE RELATING TO THE GOODS PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. EXCEPT AS OTHERWISE PROVIDED BY LAW, BUYER'S EXCLUSIVE REMEDY AND SELLER'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES ARE LIMITED TO REPAIRING OR REPLACING THE GOODS AND WILL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE BUYER HEREUNDER.**

**7. Inspection.** Buyer will have the right to inspect the goods upon their receipt. When delivery is to Buyer's site or to a project site ("Site"), Buyer will notify Seller in writing of any nonconformity of the goods with this Agreement within three (3) business days from receipt by Buyer, unless a shorter period is required in Seller's quotation or proposal. For all other deliveries, Buyer will notify Seller in writing of any nonconformity with this Agreement within fourteen (14) calendar days from receipt by Buyer. Failure to give such applicable notice will constitute a waiver of Buyer's right to inspect and/or reject the goods for nonconformity and will be equivalent to an irrevocable acceptance of the goods by Buyer. Claims for loss of or damage to goods in transit must be made to the carrier, and not to Seller.

**8. SELLER'S LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE PROVIDED BY LAW, IN NO EVENT WILL SELLER'S LIABILITY EXCEED THE AMOUNT PAID BY BUYER UNDER THIS AGREEMENT. SELLER WILL HAVE NO LIABILITY FOR LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME,**

**LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY, LOSS OF REPUTATION, LIQUIDATED, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY WILL BE EFFECTIVE WITHOUT REGARD TO SELLER'S ACTS OR OMISSIONS OR NEGLIGENCE OR STRICT LIABILITY IN PERFORMANCE OR NON-PERFORMANCE HEREUNDER.**

To the extent the Agreement provides a specified remedy for a default or breach, the given remedy will be Seller's sole liability and Buyer's sole and exclusive remedy for the default or breach to the exclusion of any and all other remedies that may be available at law, in equity, or otherwise. The terms of this Article 8 survive expiry or termination of the Agreement and prevail over all other provisions contained in the Agreement.

**9. Force Majeure.** Seller may cancel, terminate, or suspend this Agreement and Seller will have no liability for any failure to deliver or perform, or for any delay in delivering or performing any obligations, due to acts or omissions of Buyer and/or its contractors, or due to circumstances beyond Seller's reasonable control, including acts of God, fire, flood or other natural disasters, war (declared or not declared) and civil disturbance, riot, acts of governments, terrorism, disease, currency restrictions, labor shortages or disputes, unavailability of materials, fuel, power, energy or transportation facilities, failures of suppliers or subcontractors to effect deliveries, in which case, for suspensions, the time for performance will be extended in an amount equal to the period necessary for Seller to recover from the event, provided that Seller will, as soon as reasonably practicable after it has actual knowledge of the beginning of any excusable delay, notify Buyer of the delay and of the anticipated duration and consequence thereof. Seller will resume performance of its obligations hereunder with the least possible delay.

**10. Cancellation; Termination.** Except as otherwise provided in this Agreement, no order may be cancelled on special or made-to-order goods or unless otherwise requested in writing by either party and accepted in writing by the other party. If a cancellation of the Agreement is requested by Buyer, Buyer will, within thirty (30) calendar days of receipt of a final accounting of cancellation charges, pay Seller a cancellation fee, which will include all costs and expenses incurred by Seller prior to the receipt of the request for cancellation including, but not limited to, all commitments to its suppliers, subcontractors, and others, fully burdened labor and overhead expended by Seller, plus a reasonable profit charge.

Notwithstanding anything to the contrary in the Agreement, if the commencement by or against Buyer of any voluntary or involuntary proceedings in bankruptcy or insolvency, or if Buyer will be adjusted bankrupt, make a general assignment for the benefit of its creditors, or if a receiver will be appointed on account of Buyer's insolvency, Seller may, upon providing Buyer notice that has immediate effect upon issuance, terminate the Agreement. If Buyer fails to make any payment when due under this Agreement, or if Buyer does not correct or, if immediate correction is not possible, commence and diligently continue action to correct any default of Buyer to comply with any of the provisions or requirements of this Agreement within ten (10) business days after being notified in writing of such default by Seller, Seller may, by written notice to Buyer, without prejudice to any other rights or remedies which Seller may have, terminate its further performance of this Agreement. In the event of termination under this Article 10, Seller will be entitled to receive payment as if Buyer has

cancelled the Agreement as per the preceding paragraph. Seller may nevertheless elect to complete its performance of this Agreement by any means it chooses. Upon termination of this Agreement, the rights, obligations, and liabilities of the parties which will have arisen or been incurred under this Agreement prior to its termination will survive such termination.

**11. Drawings.** All drawings are the property of Seller. The drawings and bulletin illustrations submitted with Seller's quotation show general type, arrangement, and approximate dimensions of the goods to be furnished for Buyer's information only and Seller makes no representation or warranty regarding their accuracy. Unless expressly stated to the contrary within the quotation or proposal, all drawings, illustrations, specifications, or diagrams form no part of this Agreement. Seller reserves the right to alter such details in design or arrangement of its goods which, in its judgment, constitute an improvement in construction, application, or operation. After Buyer's acceptance of this Agreement, any changes in the type of goods, the arrangement of the goods, or application of the goods requested by Buyer will be made at Buyer's expense.

**12. Confidential Information.** Seller's designs, illustrations, drawings, specifications, technical data, catalogues, "know-how", economic or other business or manufacturing information (collectively "Confidential Information") disclosed to Buyer will be deemed proprietary and confidential to Seller. Buyer agrees not to disclose, use, or reproduce any Confidential Information without first having obtained Seller's written consent. Buyer's agreement to refrain from disclosing, using or reproducing Confidential Information will survive completion of the work under this Agreement. Buyer acknowledges that its improper disclosure of Confidential Information to any third party will result in Seller's suffering irreparable harm. Seller may also seek injunctive or equitable relief to prevent Buyer's unauthorized disclosure.

**13. Installation and Start-up.** Unless otherwise agreed to in writing by Seller, installation will be the sole responsibility of Buyer. Where start-up service is required with respect to the goods purchased hereunder, it must be performed by Seller's authorized personnel or agents; otherwise, the Warranty is void. If Buyer has engaged Seller to provide an engineer for start-up supervision, such engineer will function in a supervisory capacity only and Seller will have no responsibility for the quality of workmanship of the installation. In any event, Buyer understands and agrees that it will furnish, at Buyer's expense, all necessary foundations, supplies, labor, and facilities that might be required to install and operate the goods.

**14. Specifications; Back-charges.** Changes in specifications requested by Buyer are subject to Seller's written approval. If such changes are approved, the price for the goods and the delivery schedule will be changed to reflect such changes. Buyer will not make purchases nor will Buyer incur any labor that would result in a back charge to Seller without prior written consent of Seller.

**15. Buyer's Warranty.** Buyer warrants the accuracy of any and all information relating to the details of its operating conditions, including temperatures, pressures, and where applicable, the nature of all hazardous materials. Seller can justifiably rely upon the accuracy of Buyer's information in its performance. Should Buyer's information prove inaccurate, Buyer agrees to reimburse Seller for any losses, liabilities, damages, and expenses that Seller may have incurred as a result of any inaccurate information provided by Buyer to Seller.

**16. Governing Law.** The terms of this Agreement and all rights and obligations hereunder will be governed by the laws of the State of Indiana without reference to principles of conflicts of laws.

**17. Export Regulation.** Seller's goods, including any software, documentation, and related technical data included with, or contained in, or utilized by such goods, may be subject to applicable export laws and regulations, including United States Export Administration Regulations and Buyer will comply with all such applicable laws and regulations. In particular, Buyer will not, and will not permit any third parties to, directly or indirectly, export, re-export, or release any goods to any jurisdiction or country to which, or any party to whom, the export, re-export, or release of any goods is prohibited by applicable law, regulation or rule. The Buyer will be responsible for any breach of this Article 17.

**18. Titles; Waiver; Severability.** The article titles are for reference only and will not limit or restrict the interpretation or construction of this Agreement. Seller's failure to insist, in any one or more instances, upon Buyer's performance of this Agreement, or to exercise any rights conferred, will not constitute a waiver or relinquishment of any such right or right to insist upon Buyer's performance in any other regard. The partial or complete invalidity of any one or more provisions of this Agreement will not affect the validity or continuing force and effect of any other provision.

**19. Changes.** Any requested change(s) to the work set forth in this Agreement requires the parties to enter into a written change order that contains a description of the change(s) and all other applicable terms, including change in price and delivery schedule ("Change Order"). Should the entirety of a Buyer's change request be to revise Seller's delivery schedule, this also will require a Change Order that specifies, among other things, the revised Agreement price. Seller will not be obliged to proceed with any change and no such change will be binding or have any effect on Seller or this Agreement unless/until the parties enter into a Change Order. Should Seller's ability to proceed with the work be altered by Buyer's delay in entering into a Change Order, Seller will be entitled to assess late fees and suspend performance of all work for the period of delay.