

CUSTOMER VALUE AGREEMENT TERMS AND CONDITIONS

These Customer Value Agreement Terms and Conditions (“**CVA Terms**”) govern Customer’s participation in the Customer Value Agreement program (“**CVA Program**”) offered by MacAllister Machinery Co., Inc. (“**MacAllister**”). By enrolling in the CVA Program, Customer agrees to be bound by these CVA Terms. These CVA Terms are effective as of the date Customer executes a CVA Enrollment Form (“**Effective Date**”).

1. **Definitions.** Capitalized terms used in these CVA Terms have the meanings set forth in Section 1 or as defined elsewhere in these CVA Terms.

- 1.1 “**Business Day**” means Monday through Friday, excluding holidays observed by MacAllister. All references to “end of business” mean the end of regular business hours at the applicable MacAllister location. Orders, service requests, or authorizations received outside of regular business hours will be treated as received at the start of the next Business Day.
- 1.2 “**CAT Credits**” means credits issued by CFCAC under the Services Commitment Program as a remedy for Missed Commitments, as further described in Section 8.
- 1.3 “**Caterpillar**” or “**CAT**” means Caterpillar Inc. and its affiliates.
- 1.4 “**Customer**” means the person or entity identified in the CVA Enrollment Form.
- 1.5 “**CVA Enrollment Form**” means the enrollment documentation executed by Customer specifying the Covered Equipment, selected Tier, and applicable CVA Fee.
- 1.6 “**CVA Fee**” means the fee amount(s) specified in the CVA Enrollment Form.
- 1.7 “**Coverage Period**” means the two-year period commencing on the date the Covered Equipment is delivered to Customer, as may be renewed in accordance with Section 4.
- 1.8 “**Covered Parts**” means parts eligible under Caterpillar’s Services Commitment Program, as determined by Caterpillar from time to time in its sole discretion, including maintenance, wear, and common repair parts for the Covered Equipment.
- 1.9 “**Covered Equipment**” means the specific item(s) of equipment identified in the CVA Enrollment Form for which Customer is enrolling in the CVA Program.
- 1.10 “**Parts Kit**” means the CAT recommended filters and parts per the applicable Operations and Maintenance Manual for the Covered Equipment for the scheduled service interval.
- 1.11 “**Service Terms**” means MacAllister’s Service Terms and Conditions, as amended from time to time, which are available at www.macallister.com/serviceterms or upon request and are incorporated herein by reference in their entirety.
- 1.12 “**Tier**” means the Gold, Silver, or Bronze Tier, as selected by Customer in the CVA Enrollment Form and as further described in Section 3.

2. **Applicability; Service Terms**

- 2.1 These CVA Terms govern Customer’s enrollment and participation in the CVA Program. All PM Services and other service work performed by MacAllister in

connection with the CVA Program shall be governed by the Service Terms, which are incorporated herein by reference.

- 2.2 If there is any conflict between these CVA Terms and the Service Terms, these CVA Terms shall control with respect to matters specifically addressed herein, and the Service Terms shall control with respect to all other matters relating to the performance of services.
- 2.3 If there is any conflict between the Enrollment Form and these CVA Terms, the Enrollment Form shall control with respect to Covered Equipment, Tier selection, and pricing for a specific CVA, and these CVA Terms shall control with respect to all other matters.
- 2.4 Customer authorizes MacAllister to perform PM Services by scheduling such services with MacAllister in accordance with Section 6. For any services beyond the PM Services included in the CVA, Customer authorizes such services by approving the applicable quote in accordance with the Service Terms.
- 2.5 Except for the express Services Commitment as described in Section 7, the CVA Program is a maintenance planning and service offering and does not constitute a warranty, performance guarantee, or uptime guarantee of any kind.
- 2.6 All PM Services performed (or parts supplied) under a CVA constitute “**Services**” for purposes of the Service Terms. Customer’s authorization of any PM Service or additional service under a CVA constitutes Customer’s acceptance of the Service Terms with respect to such service.

3. **Enrollment; Tiers**

- 3.1 Customer may enroll in the CVA Program by executing a CVA Enrollment Form and paying the applicable CVA Fee. The Enrollment Form will identify the Covered Equipment. Enrollment is subject to MacAllister’s acceptance in its sole discretion. By executing the Enrollment Form, Customer agrees to be bound by these CVA Terms regardless of whether MacAllister accepts the enrollment.
- 3.2 Customer represents and warrants that the CVA, Covered Equipment, parts, services, CAT Credits, and related benefits are purchased and used for commercial, business, governmental, agricultural, or industrial purposes, and not for personal, family, or household purposes.
- 3.3 Customer may enroll additional equipment in the CVA Program at any time by executing a separate Enrollment Form for each additional item of equipment. If Customer identifies a Fleet CVA Number on the Enrollment Form, the additional equipment will be associated with Customer’s existing CVA account for administrative purposes; however, each item of Covered Equipment will have its own Coverage Period commencing on its delivery date. Pricing for additional equipment will be at MacAllister’s then-current rates.
- 3.4 Customer shall select one of the following Tiers at the time of enrollment:
 - (a) **Gold Tier**: PM Services performed by MacAllister in the field (travel and truck use included within MacAllister’s service territory). Gold Tier includes the full

Services Commitment (Parts Availability Guarantee and Equipment Repair Guarantee) as described in Section 7.

- (b) Silver Tier: PM Services performed by MacAllister at a MacAllister service facility (shop labor). Silver Tier includes the Services Commitment (Parts Availability Guarantee and Equipment Repair Guarantee) as described in Section 7. Customer is responsible for all costs of transporting Covered Equipment to and from the MacAllister service facility. Field service is available on a per-event basis at applicable travel and truck use charges and remains subject to the Equipment Repair Guarantee.
 - (c) Bronze Tier: MacAllister ships a Parts Kit and any additional parts or filters specified on the Enrollment Form to Customer for Customer's self-performance of preventive maintenance. Bronze Tier includes the Parts Availability Guarantee as described in Section 7 but does not include the Equipment Repair Guarantee. Labor is not included. Risk of loss for the Parts Kit and any additional parts or filters shipped to Customer passes to Customer upon delivery to the carrier.
- 3.5 The specific components included in each Tier, including condition monitoring, fluid analysis, inspections, VisionLink®, and other parts or services, are as described on the Enrollment Form. MacAllister may modify the components, scope, or availability of any Tier upon written notice to Customer.
- 3.6 THE PARTS AVAILABILITY GUARANTEE IS AVAILABLE TO CUSTOMERS ENROLLED IN ALL TIERS. THE EQUIPMENT REPAIR GUARANTEE IS AVAILABLE ONLY TO CUSTOMERS ENROLLED IN THE GOLD TIER OR SILVER TIER. CUSTOMERS ENROLLED IN THE BRONZE TIER DO NOT RECEIVE THE EQUIPMENT REPAIR GUARANTEE. CAT CREDITS FOR MISSED COMMITMENTS ARE AVAILABLE TO ALL TIERS AS DESCRIBED IN SECTION 8.
- 3.7 The CVA Program is available for equipment models that MacAllister designates as eligible, as MacAllister may update from time to time in its sole discretion. Equipment or product lines not eligible for the standard Gold, Silver, and Bronze Tiers may be enrolled in the CVA Program under custom-quoted terms, which may supplement or modify these CVA Terms as specified on the applicable Enrollment Form.

4. **Coverage Period**

- 4.1 The initial Coverage Period shall be two (2) years, commencing on the date the Covered Equipment is delivered to Customer. For the avoidance of doubt, the Coverage Period commences upon delivery, not upon the date of sale or the date of enrollment.
- 4.2 Unless either party provides written notice of non-renewal to the other party at least thirty (30) days prior to the expiration of the then-current Coverage Period, the CVA shall automatically renew for successive two-year Coverage Periods at MacAllister's then-current pricing.
- 4.3 MacAllister will use commercially reasonable efforts to provide renewal notices to Customer prior to the expiration of the then-current Coverage Period using the

contact information on file for Customer. Failure to receive such notices shall not affect the automatic renewal of the CVA or Customer's obligation to provide timely notice of non-renewal.

- 4.4 Pricing for renewal Coverage Periods shall be at MacAllister's then-current rates, which may differ from the pricing for the initial Coverage Period.

5. **Pricing; Payment**

- 5.1 Customer shall pay the CVA Fee specified in the CVA Enrollment Form. CVA pricing is quoted at the point of sale and may vary based on Tier selection, equipment type, and other factors.
- 5.2 The CVA Fee is due and payable in full upon enrollment, unless otherwise specified in the CVA Enrollment Form. Payment shall be made per MacAllister's standard payment terms.
- 5.3 The CVA Fee does not include applicable sales, use, or other taxes, which shall be Customer's responsibility.
- 5.4 Any discounted pricing, bundled pricing, condition monitoring, equipment management, VisionLink®, Services Commitment benefits, or other CVA benefit is conditioned on MacAllister performing the services included in the applicable CVA Tier during the Coverage Period. If Customer cancels, materially reduces, transfers, avoids, delays, or prevents MacAllister's performance of the contracted CVA services, MacAllister may suspend the CVA, terminate the CVA, or adjust pricing retroactively to MacAllister's standard rates for the parts, labor, subscriptions, monitoring, and services provided.

6. **Preventive Maintenance**

- 6.1 Each Coverage Period includes two (2) scheduled preventive maintenance intervals for the Covered Equipment, occurring at either approximately five hundred (500) engine hours or annually, whichever occurs first.
- 6.2 For Gold and Silver Tiers:
- (a) MacAllister will perform preventive maintenance service at each scheduled interval ("**PM Services**").
 - (b) The specific scope of each PM Service is based on the applicable Caterpillar Operations and Maintenance Manual for the Covered Equipment and may vary based on equipment model, operating conditions, and service interval.
 - (c) PM Services are performed by MacAllister and include labor, parts, fluids, and fluid disposal associated with the applicable service interval.
 - (d) MacAllister will notify Customer when PM Services are due based on equipment hours and service intervals. Customer is responsible for coordinating scheduling with MacAllister following such notification. MacAllister will use commercially reasonable efforts to accommodate Customer's scheduling preferences, subject to availability.

- (e) PM Services not scheduled by Customer within the applicable service interval are forfeited and do not carry over to any subsequent interval or renewal period. No refund or credit will be issued for forfeited PM Services.
- (f) Customer shall make the Covered Equipment available for PM Services and other CVA-related services at the scheduled time and location. Repeated cancellations, rescheduling, failure to provide access, or unavailability of Covered Equipment may be deemed a material disruption of the CVA. MacAllister may require prepayment for future scheduled services, suspend CVA services, charge applicable travel, handling, storage, standby, or mobilization charges, and recover costs for partially completed services based on MacAllister's then-current rates.

6.3 For Bronze Tier:

- (a) MacAllister will ship the applicable Parts Kit and any additional parts or filters specified on the Enrollment Form to Customer at or near each scheduled interval.
- (b) Labor is not included. Customer will self-perform preventive maintenance.

6.4 Customer shall maintain telematics connectivity (including Product Link or equivalent) on all Covered Equipment for the duration of the Coverage Period. If Customer disables, removes, or fails to maintain telematics connectivity, MacAllister's ability to provide condition monitoring, VisionLink®, PM Services, and related services may be impaired, and MacAllister shall have no liability for any failure to deliver such services or to meet the Services Commitment resulting from the loss of connectivity.

6.5 MacAllister's CVA pricing is based on the information available to MacAllister at enrollment, including Customer's representations regarding the Covered Equipment's cleanliness, configuration, application, operating status, maintenance history, hours, and condition. Any parts or services beyond those included in the CVA Tier, including repairs, additional maintenance, cleaning, transportation, preparation work, or services for equipment issues discovered during PM Services, shall be quoted separately and are subject to the Service Terms. MacAllister may suspend affected CVA services until Customer approves and pays for such additional work, or until the Covered Equipment is otherwise made available in a condition suitable for service.

7. **Services Commitment**

7.1 The "**Services Commitment**" means, collectively, the Parts Availability Guarantee and the Equipment Repair Guarantee, as further described in this Section 7.

7.2 The "**Parts Availability Guarantee**" is the following:

- (a) For all CVA Tiers, MacAllister commits to make parts eligible under Caterpillar's Services Commitment Program, as determined by Caterpillar from time to time in its sole discretion ("**Covered Parts**"), including maintenance, wear, and common repair parts for the Covered Equipment, available for pick-up at the applicable MacAllister location as follows:

- (i) If Customer specifies an “**Order Need-By-Date**” when ordering Covered Parts, MacAllister will make the Covered Parts available for pick-up by end of business on that Order Need-By-Date.
 - (ii) If Customer does not specify an Order Need-By-Date, or if the Order Need-By-Date is the same day as the order date, MacAllister will make Covered Parts available for pick-up by the end of the next Business Day.
 - (iii) If Customer’s Order Need-By-Date falls on a day other than a Business Day, the Order Need-By-Date will be treated as the next Business Day.
- (b) The Parts Availability Guarantee applies only where the parts order references a single Covered Equipment serial number and otherwise meets Caterpillar’s Services Commitment Program requirements

7.3 The “**Equipment Repair Guarantee**” is the following:

- (a) For Gold and Silver Tier enrollments only, MacAllister commits to complete service on Covered Equipment as follows:
 - (i) If MacAllister communicates an expected completion date to Customer (“**Planned Completion Date**”), MacAllister will complete service by the Planned Completion Date.
 - (ii) If no Planned Completion Date is communicated, or if the communicated Planned Completion Date falls on the same Business Day as—or the next Business Day after—Customer authorizes service, MacAllister will complete service by the end of the second Business Day after Customer authorizes service. For purposes of this Section 7.3, Customer “authorizes service” when Customer approves the applicable estimate or quote and provides sufficient information for MacAllister to commence the applicable service.
- (b) The Equipment Repair Guarantee applies to unplanned service events (including repair events) only and does not apply to scheduled PM Services.
- (c) The Equipment Repair Guarantee is contingent upon Customer making the Covered Equipment available for service, providing all required information, and approving the applicable quote without unreasonable delay.
- (d) Customers enrolled in the Bronze Tier are not entitled to the Equipment Repair Guarantee and have no rights or remedies with respect to service completion timelines

7.4 The Services Commitment is administered in accordance with Caterpillar’s Services Commitment Program requirements. The terms, conditions, and availability of the Services Commitment are subject to Caterpillar’s program requirements and may be modified by Caterpillar at any time.

- (a) The Services Commitment, including the availability of CAT Credits for Missed Commitments, applies only where the Customer and Covered Equipment meet the eligibility criteria of Caterpillar's Services Commitment Program, as determined by Caterpillar from time to time in its sole discretion.
- (b) If Customer or the Covered Equipment does not qualify under Caterpillar's program criteria, the CVA remains in effect but without the Services Commitment benefits described in this Section 7 and the CAT Credits described in Section 8.

8. **CAT Credits**

- 8.1 A "**Missed Commitment**" means when MacAllister fails to meet either the Parts Availability Guarantee or Equipment Repair Guarantee, as applicable, as further described in this Section 8 and subject to the exclusions set forth in Section 9.
- 8.2 If a Missed Commitment occurs, Customer's sole and exclusive remedy shall be CAT Credits, if any, issued by Caterpillar Financial Commercial Account Corporation ("**CFCAC**"), subject to the terms of this Section 8. CAT Credits are not cash, have no cash value, and are subject to validation by Caterpillar and the separate program terms governing CAT Credits.
- 8.3 CAT Credits for Missed Commitments are as follows:
 - (a) Parts Availability Guarantee Miss: CAT Credits in an amount equal to the lesser of (i) the price paid by Customer for the Covered Parts (excluding taxes and fees) or (ii) one thousand dollars (\$1,000) per invoice.
 - (b) Equipment Repair Guarantee Miss: CAT Credits in an amount equal to one thousand dollars (\$1,000) per Missed Commitment.
- 8.4 Only one type of CAT Credit (either for a Parts Availability Guarantee miss or an Equipment Repair Guarantee miss) may be issued per transaction. If a transaction could qualify for both types of credits, Caterpillar shall determine, based on applicable program criteria, which credit type applies.
- 8.5 CAT Credits are subject to Caterpillar's validation and issuance process and may be approved or denied based on program criteria. MacAllister does not control the timing of validation, approval, or issuance of CAT Credits, and MacAllister shall have no liability for any delay or denial by Caterpillar or CFCAC in the validation or issuance process. Credits that are denied during the validation process are not communicated to Customer.
- 8.6 CAT Credits are issued by CFCAC and expire two (2) years after the date of issuance. Expired CAT Credits have no value and cannot be redeemed.
- 8.7 CAT Credits may be redeemed for parts, services, rentals, and work tools at any participating Caterpillar dealer or CAT Rental store, or any other vendor who accepts CAT Credits. CAT Credits must be redeemed against a valid invoice and may not be applied to a customer house account balance. CAT Credits may not be used for the purchase of new machines or for personal, family, or household use. CAT Credits are subject to additional terms and conditions available at www.cat.com/catcredits.

- 8.8 CUSTOMER ACKNOWLEDGES AND AGREES THAT CAT CREDITS ISSUED PURSUANT TO THIS SECTION 8 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY MISSED COMMITMENT, AND CUSTOMER WAIVES ANY AND ALL OTHER CLAIMS, REMEDIES, OR CAUSES OF ACTION ARISING FROM OR RELATED TO A MISSED COMMITMENT, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE.

9. **Exclusions**

- 9.1 The Services Commitment does not apply to, and no CAT Credits shall be issued with respect to, any of the following:
- (a) Parts covered under Caterpillar warranty or Extended Protection Plan;
 - (b) Discontinued parts;
 - (c) Made-to-order parts;
 - (d) Inventory or bulk orders;
 - (e) Work tool repairs;
 - (f) Rental fleet CVAs;
 - (g) Component CVAs;
 - (h) Any parts or services not designated by Caterpillar as covered under Caterpillar's Services Commitment Program; and
 - (i) Any other exclusions specified by Caterpillar under Caterpillar's Services Commitment Program.
- 9.2 Caterpillar may modify the list of exclusions and the scope of the Services Commitment at any time in its sole discretion. MacAllister shall have no liability for any such modifications.

10. **Equipment Transfer; Cancellation**

- 10.1 The CVA is specific to both the Covered Equipment and Customer identified in the CVA Enrollment Form. The CVA does not transfer to subsequent owners of the Covered Equipment, subject to Section 10.3. If Customer sells, transfers, or otherwise disposes of the Covered Equipment, or if the Covered Equipment is destroyed, stolen, or declared a total loss, the CVA shall terminate with respect to such equipment, and Customer shall not be entitled to any refund of the CVA Fee.
- 10.2 NO REFUNDS SHALL BE PROVIDED UPON CUSTOMER'S CANCELLATION OF THE CVA OR TRANSFER OF THE COVERED EQUIPMENT, REGARDLESS OF THE REASON FOR CANCELLATION OR TRANSFER AND REGARDLESS OF WHETHER ANY PM SERVICES OR PARTS KIT SHIPMENTS REMAIN UNUSED OR UNDELIVERED AT THE TIME OF SUCH CANCELLATION OR TRANSFER. NO REFUND SHALL BE PROVIDED IF THE CVA TERMINATES DUE TO THE DESTRUCTION, THEFT, OR TOTAL LOSS OF THE COVERED EQUIPMENT.

- 10.3 If Customer trades in the Covered Equipment to MacAllister and purchases a replacement machine from MacAllister, MacAllister may, in its sole discretion, apply any remaining value of the CVA to a new CVA for the replacement machine. Any such application of remaining value is at MacAllister's sole discretion and is not guaranteed.
- 10.4 MacAllister may suspend CVA services and Services Commitment obligations if Customer is in breach of payment or other material obligations under these CVA Terms or the Service Terms, or if Customer fails to maintain telematics connectivity as required by Section 6. Suspension will continue until the breach or failure is cured to MacAllister's reasonable satisfaction.
- 10.5 MacAllister may terminate the CVA at any time upon written notice to Customer if Customer breaches these CVA Terms or the Service Terms and fails to cure such breach within thirty (30) days of written notice, or if MacAllister discontinues the CVA Program. If MacAllister terminates a CVA due to discontinuation of the CVA Program, MacAllister will provide a pro rata credit for the unexpired portion of the Coverage Period, which may be applied toward future MacAllister services.

11. Modifications To CVA Program

- 11.1 MacAllister reserves the right to modify the CVA Program, including these CVA Terms, Tier offerings, pricing, and service levels, at any time. Nominal modifications, including administrative changes, updates to service processes, and adjustments to Tier components that do not materially reduce the Services Commitment, shall be effective without notice to Customer. If a modification materially reduces Services Commitment benefits, MacAllister will provide Customer with written notice prior to the effective date of such modification. Customer may terminate the affected CVA upon thirty (30) days' written notice to MacAllister following receipt of such notice. If Customer terminates under this Section 11.1, MacAllister will provide a pro rata credit for the unexpired portion of the Coverage Period, which may be applied toward future MacAllister services.
- 11.2 The Services Commitment is subject to Caterpillar's Services Commitment Program. Caterpillar may modify the Services Commitment Program, including the list of Covered Parts, credit amounts, exclusions, and other terms, at any time in its sole discretion. MacAllister will use commercially reasonable efforts to notify Customer of material changes to Caterpillar's Services Commitment Program that affect the Services Commitment. MacAllister shall have no liability for any such modifications by Caterpillar.
- 11.3 Customer's continued participation in the CVA Program following notice of any modification constitutes Customer's acceptance of such modification.

12. Data Collection and Sharing

- 12.1 Customer acknowledges that MacAllister and Caterpillar may collect data from the Covered Equipment, including telematics data, location data, operating hours, fault codes, service history, and other diagnostic information, in connection with the CVA Program.

- (a) Customer authorizes MacAllister to share Customer information and equipment data with Caterpillar and its affiliates, including CFCAC, as necessary to administer the CVA Program, including for purposes of validating and issuing CAT Credits.
 - (b) MacAllister owns and may retain all records, reports, inspections, service history, diagnostic information, telematics-derived service records, communications, work orders, CVA administration records, and other records created or maintained by MacAllister in connection with the CVA Program or any services. MacAllister may use and disclose such records for CVA administration, service support, warranty administration, Cat Credits validation, legal compliance, collection, dispute resolution, and defense of claims.
 - (c) MacAllister's collection and use of Customer information is subject to MacAllister's privacy policy, as amended from time to time, which is available at www.macallister.com/privacy or upon request.
- 12.2 Customer consents to receiving electronic communications from MacAllister in connection with the CVA Program, including service progress updates, scheduling notifications, and post-service surveys. Customer acknowledges that survey responses and other feedback may be shared with Caterpillar for program administration and improvement purposes.
- 12.3 If Customer provides a mobile telephone number and/or email address on the CVA Enrollment Form and consents to electronic communications, MacAllister may send automated text messages, phone calls, and other electronic communications to the number and/or email address provided for service-related and promotional purposes, subject to the consent and opt-out terms set forth on the CVA Enrollment Form. Customer may revoke consent at any time by replying STOP or by any other reasonable method, and MacAllister will process such revocation within ten (10) business days.

13. **Limitations of Liability**

- 13.1 EXCEPT FOR CAT CREDITS ISSUED PURSUANT TO SECTION 8, MACALLISTER'S TOTAL LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THE CVA PROGRAM, INCLUDING ANY LIABILITY ARISING FROM MACALLISTER'S COMPARATIVE, CONCURRENT, CONTRIBUTORY, PASSIVE, OR ACTIVE NEGLIGENCE, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, SHALL NOT EXCEED THE CVA FEE PAID BY CUSTOMER FOR THE THEN-CURRENT COVERAGE PERIOD. CAT CREDITS ISSUED PURSUANT TO SECTION 8 SHALL NOT COUNT TOWARD OR BE INCLUDED IN THIS LIABILITY CAP.
- 13.2 IN NO EVENT SHALL MACALLISTER BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOST REVENUE, LOSS OF USE, DIMINUTION IN VALUE, BUSINESS INTERRUPTION, COST OF

SUBSTITUTE EQUIPMENT OR SERVICES, OR THIRD-PARTY CLAIMS, ARISING OUT OF OR RELATED TO THE CVA PROGRAM, ANY MISSED COMMITMENT, OR ANY FAILURE TO ISSUE CAT CREDITS, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER MACALLISTER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13.3 ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE CVA PROGRAM MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE DATE OF THE EVENT GIVING RISE TO THE CLAIM. ANY CLAIM NOT BROUGHT WITHIN THIS PERIOD IS PERMANENTLY BARRED.

13.4 Customer acknowledges that the limitations of liability set forth in this Section 13 are an essential basis of the bargain between the parties and that MacAllister would not offer the CVA Program without such limitations.

13.5 THE LIMITATIONS SET FORTH IN THIS SECTION 13 DO NOT APPLY TO THE EXTENT LIABILITY RESULTS FROM MACALLISTER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR AS OTHERWISE PROHIBITED BY APPLICABLE LAW.

14. **Force Majeure**

14.1 MacAllister shall not be liable for any failure or delay in performing its obligations under the CVA Program, including any Missed Commitment, to the extent such failure or delay is caused by circumstances beyond MacAllister's reasonable control, including without limitation acts of God, natural disasters, war, terrorism, riots, embargoes, acts of civil or military authorities, blockages, explosions, systemic utility failures, fire, floods, epidemics, pandemics, quarantine restrictions, strikes, labor disputes, freight embargoes, supply chain disruptions, or unusually severe weather (each, a "**Force Majeure Event**").

14.2 The Services Commitment, including the Parts Availability Guarantee and Equipment Repair Guarantee, shall be suspended during any Force Majeure Event, and no CAT Credits shall be issued for any Missed Commitment caused by a Force Majeure Event.

14.3 MacAllister shall use commercially reasonable efforts to notify Customer of any Force Majeure Event affecting MacAllister's ability to perform under the CVA Program.

15. **General Provisions**

15.1 **Governing Law.** These CVA Terms shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to its conflict of laws principles.

15.2 **Dispute Resolution.** Any dispute arising out of or related to these CVA Terms or the CVA Program shall be resolved in the state or federal courts located in Marion County, Indiana, and Customer consents to the exclusive jurisdiction and venue of such courts. For the avoidance of doubt, any dispute touching or concerning the CVA Program shall be subject to this Section 15.2, notwithstanding any different venue provision in the Service Terms. EACH PARTY IRREVOCABLY WAIVES ANY

RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THESE CVA TERMS OR THE CVA PROGRAM.

- 15.3 Entire Agreement. These CVA Terms, together with the CVA Enrollment Form and the Service Terms, constitute the entire agreement between the parties with respect to the CVA Program and supersede all prior or contemporaneous communications, representations, or agreements, whether oral or written.
- 15.4 Severability. If any provision of these CVA Terms is held to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.
- 15.5 Waiver. No waiver of any provision of these CVA Terms shall be effective unless in writing and signed by MacAllister. No failure or delay by MacAllister in exercising any right or remedy shall operate as a waiver thereof.
- 15.6 Assignment. Customer may not assign or transfer the CVA or any rights or obligations under these CVA Terms without MacAllister's prior written consent. MacAllister may assign these CVA Terms to any affiliate or successor without Customer's consent.
- 15.7 Notices. All notices under these CVA Terms shall be in writing and shall be deemed given when delivered personally, sent by confirmed email, or sent by certified mail, return receipt requested, to the addresses set forth in the CVA Enrollment Form or such other address as a party may designate in writing.
- 15.8 Independent Contractors. The relationship between MacAllister and Customer is that of independent contractors. Nothing in these CVA Terms shall be construed to create a partnership, joint venture, agency, or employment relationship between the parties.
- 15.9 Third-Party Beneficiaries. Except as expressly provided herein, these CVA Terms are not intended to confer any rights or remedies upon any person other than the parties hereto.
- 15.10 Survival. The provisions of Sections 8, 9, 10, 12, 13, 14, and 15 shall survive the expiration or termination of the CVA.