

EXECUTED as an Agreement

**The Customer:**

The Customer hereby acknowledges that it has read and understood the terms of this Agreement.

Company or Trading Name .....

ABN .....  
(if applicable)

Address .....

Signed\* .....

Name .....  
Print name

Position .....

Date .....

\*Where the Customer is not a sole trader, by executing this Agreement, the signatory states that the signatory is duly authorised to sign this Agreement on behalf of the Customer.

**William Adams Pty Ltd:**

Signed .....  
(William Adams' representative)

Name .....  
Print name

Date .....

State where signed: Victoria / Tasmania\*  
\*delete whichever does not apply

**Schedule**

<b>STANDARD 3748 GUARANTEE - PERIOD OF COVER OPTIONS (AND ASSOCIATED EXTENDED GUARANTEE PERIOD)</b>			
PRODUCT FAMILY	3 YEARS OR 2,400 HOURS	3 YEARS OR 3,700 HOURS	3 YEARS OR 4,800 HOURS
	Extended Guarantee Period of 3 Years / 4000 hours applies	Extended Guarantee Period of 3 Years / 4000 hours applies	Extended Guarantee Period of 3 Years / 6000 hours applies
Backhoe Loaders	424 to 432	424 to 432	424 to 432
Small Wheel Loaders	^ 914 to 928	914 to 928	914 to 928
Integrated Toolcarriers	^ IT14 to IT28	IT14 to IT62	IT14 to IT62
Small Hydraulic Excavators	307-308 ^ 311-315	307-315	307-315
Medium Wheel Loaders		930 to 980	930 to 980
Medium Hydraulic Excavators		320 to 345	320 to 345
Motor Graders		120, 12, 140	120 12 140
Small Track Type Tractors		D3-D5	D3-D5
Medium Track Type Tractors		D6-D7	D6-D7
Track Type Loaders		939-963	939 to 963
Articulated Trucks		725-740	725 to 740

^ Subject to further approval  
Revision No. 2-04/12/09

**William Adams Pty Ltd**

ABN 72 009 569 493

**Standard 3748 Guarantee**



**BACKGROUND**

William Adams Pty Ltd ("William Adams") will provide an extended maintenance and repair guarantee from the Date of Delivery, for a period of 3 years or 2,400 / 3,700 / 4,800 operating hours, whichever occurs first, for the following Caterpillar® product. (See Period of Cover selected below.)

**Customer and Product Details**

Customer Name: .....  
("Customer")

Customer Service Contact: ..... Customer Phone Number: .....

Model: ..... Serial Number: .....  
("Product")

Date of Delivery: ..... Anticipated Machine Monthly Hours Usage: .....

Product Application: .....

Period of Cover (select one): 3 years or 2,400 hours\*  3 years or 3,700 hours\*  3 years or 4,800 hours\*

\*The Schedule in this Agreement sets out the options of cover available in respect of this Product

William Adams and the Customer agree as follows:

**1. STANDARD 3748 GUARANTEE**

In consideration of the Customer complying with the Customer Responsibilities (as defined in clause 2.2), William Adams will carry out the Dealer Responsibilities (as defined in clause 2.3) in respect of the Customer's Caterpillar Product (as described above), for the Period of Cover (as defined in clause 2.1) subject to the terms and conditions set out in this Agreement ("Standard 3748 Guarantee").

**2. MACHINE MAINTENANCE AND REPAIR**

**2.1 DEFINED COVER**

**(A) Period of Cover:**

The Period of Cover is 3 years or 2,400 / 3,700 / 4,800 hours, as applicable, from the Date of Delivery, whichever occurs first. (The Period of Cover agreed between the Customer and William Adams for this Product is shown on the front page of this Agreement.)

**(B) Extent of Cover:**

The Dealer Responsibilities will extend to the whole of the Product as delivered to the Customer, except for Excluded Items (as defined in clause 6.2(f)(i) below)

**(C) Extended Guarantee – Caterpillar Parts and Workmanship:**

William Adams will provide the Extended Guarantee (as defined in clause 4.1) for 3 years or 4,000 / 6,000 hours, as applicable, from the Date of Delivery, whichever occurs first (see Schedule for the Extended Guarantee period applicable to this Product based on the applicable Period of Cover) ("Extended Guarantee Period").

**2.2 CUSTOMER RESPONSIBILITIES**

The Customer acknowledges the purpose of the following responsibilities ("Customer Responsibilities") is to ensure that during the Period of Cover, the Product has been maintained to a known standard of maintenance.

**The Customer will:**

- (a) Only use the product in applications and within the limits for which it has been designed and will not overload, misuse or in any other way deal with the Product contrary to any instructions or recommendations issued or given by the manufacturer. The Customer will promptly notify William Adams in writing should the machine application or the environment in which it operates vary significantly from that which was made known to William Adams at the time of or prior to the Date of Delivery.

- (b) Not modify the Product in a manner which affects its mechanical operation as designed by Caterpillar.
- (c) Adhere to and carry out all daily, weekly and other routine lubrication, inspections, servicing and maintenance practices as defined in the Caterpillar "Operation and Maintenance Manual" for the Product except for scheduled services and inspections defined as a Dealer Responsibility. The Customer is responsible for adding and recording (for Schedule Oil Sample ("S.O.S.") requirements) the use of any make up lubricants and coolant on a daily basis. The cost of such lubricants and coolant are the Customer's responsibility.
- (d) If the Product has 500 hour scheduled service and inspection intervals, ensure engine and other oil samples are taken in accordance with the "Operation and Maintenance Manual" (generally every 250 hours) and promptly forwarded to William Adams. In these circumstances, William Adams at its cost will provide the Customer with the appropriate scheduled oil sample (S.O.S.) kit/s.
- (e) Have William Adams perform all scheduled services and inspection requirements on the Product at 250 (where applicable), 500, 1,000, 2,000, 3,000 and 4,000 (where applicable) hours as specified by Caterpillar in the "Operation and Maintenance Manual" supplied to the Customer with the Product. (250 hour services are not carried out by William Adams where engine oil and filter changes are not required.)
- (f) Provide to William Adams sufficient notice (minimum 5 clear days) of each scheduled service and inspection requirement to ensure it can be scheduled to occur on or before the elapsed period. (If servicing and inspection by William Adams is precluded on account of trade union, industrial agreement or for other reason, a qualified William Adams service person is to supervise the servicing and inspection of the Product. Such costs will be an extra Customer expense.
- (g) If the product application dictates a requirement as reasonably determined by William Adams, for more frequent servicing, costs associated with this additional servicing will be the Customer's responsibility including top up lubricants.
- (h) Act promptly to make the Product available for repairs and cease using the Product if necessary when, in the opinion of William Adams, S.O.S. results or other indications including but not limited to filter material or screen inspection indicate repairs are necessary.
- (i) Ensure the Product has an operating hour meter throughout the Period of Cover by checking and recording the reading at least each week. If it is found defective, the Customer must promptly advise William Adams who will arrange for a new meter to be installed. For any claim made by the Customer the total hours operated must be shown and able to be verified by William Adams by reference to the hour meter and Customer records of meter readings.

- (j) Ensure all relevant personnel within the Customer’s own organisation are aware of the Customer Responsibilities.
- (k) Promptly notify William Adams of any “breakdowns” (as defined in clause 6.3(d)) or any product failure which under the terms of this agreement, William Adams is responsible to repair
- (l) Ensure genuine Caterpillar parts, lubricants and an authorised repairer are used for all servicing and repairs of the Product while under this Agreement.
- (m) Ensure that whenever the Product is made available to William Adams for servicing, inspections or repairs, the Product has been cleaned to a standard of cleanliness and in a manner which satisfies the criteria contained in William Adams’ “Contamination Control” processes and procedures. If in the opinion of William Adams the Product is dirty or soiled in a manner which will hinder William Adams’ performance of its obligations or which do not meet the Contamination Control criteria and standards, William Adams may clean the Product and the cost of doing so will be to the Customer’s account.

### 2.3 DEALER RESPONSIBILITIES

#### William Adams will:

- (a) Respond promptly to “breakdowns” of the Product during the hours of 7.00 am to 11.00 pm, 7 days per week (excluding public holidays) and carry out repairs at a William Adams facility or other agreed place of repair during the hours of 7.00 am to 7.00 pm, 7 days per week (excluding public holidays) at no cost to the Customer for parts or labour where failure of the Product (excluding Excluded Items) is covered by this Agreement and the failure is caused by defects in Caterpillar parts or workmanship. The cost of repairs to Excluded Items or damage caused by them, investigating complaints where the problem or failure is not caused by a defect in Caterpillar parts or workmanship, transporting the Product, any meals, accommodation, site allowances, penalty rates (outside the hours provided in this Agreement), or other costs incidental to the repair such as crane hire, etc. are not part of the Dealer Responsibilities. Such costs will be an extra Customer expense.
- (b) Carry out scheduled services and inspections at 250 (where applicable), 500, 1,000, 2,000, 3,000 (where applicable) and 4,000 (where applicable) hours or a minimum of twice a year if less than 500 hours per year for the Product excluding non Caterpillar attachments, at the machine location when requested by the Customer (within William Adams’ dealer territory) and be available to perform these activities between the hours of 7.00 am and 7.00 pm, 7 days per week (excluding public holidays) at no cost to the Customer (including travel time and mileage costs), subject to the Customer providing a minimum of 5 clear days notice of the scheduled service and inspection being required. Charges may be made by the Dealer if sufficient notice is not provided to allow efficient planning of the scheduled service and inspection. Other scheduled services and inspections required due to use of the Product in adverse conditions, or due to use of attachments such as hammers, or at 250 hour service intervals where engine oil and filter changes are not required, are not included. If these are required to be carried out by William Adams they will be an extra Customer expense. Notwithstanding the above, William Adams will carry out an inspection at the end of every twelve (12) month period during which the product has operated for less than one service interval.
- (c) Provide all parts, labour, fluids, lubricants, S.O.S. kits, materials and other consumable items required for scheduled services and inspection including disposal of used fluids and other consumables for which William Adams is responsible..
- (d) Promptly process S.O.S. analysis and advise the Customer in writing (advanced advice may be provided verbally), of any special attention or action required by the Customer to avoid failure or escalation of damage to the Product. Collectively the above items comprise the “**Dealer Responsibilities**”.

### 3. 48 HOUR MACHINE REPAIR GUARANTEE

Should William Adams fail to repair the Product (excluding Excluded Items) to an operating condition following a breakdown, within 48 hours from 7.00 am on the day following William Adams receiving notification of the breakdown, William Adams will make available to the Customer at no cost a replacement machine (“**replacement machine**”) or, at William Adams’ discretion, issue a rental credit to the Customer’s account (based on the prevailing William Adams Cat Rental Store published monthly rental rate (exclusive of GST) for an equivalent machine) (“**48 hour guarantee**”).

The replacement machine will be made available to the Customer for collection before 3.00 pm on the day prior to the expiry of the 48 hour guarantee period, for use by the Customer to accommodate the Customer’s normal working hours of the Product immediately prior to the breakdown up to a maximum of ten (10) hours per day (excluding public holidays), until such time as repairs to the Product are completed. The replacement machine may be operated for more than ten (10) hours per day however the normal William Adams Cat Rental Store charges will apply for any additional hours of operation.

If at William Adams’ discretion a rental credit is issued, the value of the rental credit will be based on the Customer’s normal working hours per day and days per week of the Product immediately prior to the breakdown, subject to the lesser of a maximum of 10 hours per day, or 50 hours per week (excluding public holidays) following the initial 48 hour breakdown period.

The replacement machine or rental credit assistance provided under the 48 hour repair guarantee will cease immediately on completion of a field repair or, in the case of a workshop repair, at 5.00 pm on the day the workshop repair is completed.

Continued use of a replacement machine or late return will be charged to the Customer. William Adams will not be required to supply a replacement machine unless the Customer first completes William Adams Cat Rental Store documentation dealing with the Customer’s use of the replacement machine including and without limitation, the Customer’s obligation to insure the replacement machine and the Customer’s liability for any loss or damage to the replacement machine.

The Customer must notify William Adams the Product is subject to the Standard 3748 Guarantee at the time the Customer first notifies William Adams of a breakdown of the Product. William Adams may designate the place and method of repair following its diagnosis. All machine transportation costs including that of any replacement machine/s will be the responsibility of the Customer.

The records of William Adams will be used to determine the above assistance, credits and charges.

### 4. EXTENDED GUARANTEE

#### 4.1 PARTS AND WORKMANSHIP GUARANTEE

William Adams will, for the Extended Guarantee Period of 3 years or 4,000 / 6,000 hours (see Schedule for period applicable to this Product) whichever occurs first from the Date of Delivery, repair the Product during normal working hours at a William Adams facility or other agreed place of repair. This repair will be at no cost to the Customer for parts and labour, where failure of the Product parts or systems (excluding Excluded Items) is covered by this Agreement and the requirement for the repair is caused by defects in Caterpillar parts or workmanship (“**Extended Guarantee**”). The costs of repairs to Excluded Items or damage caused by them, transporting the Product, any meals, accommodation, site allowance, penalty rates, or other costs incidental to the repair such as crane hire are not part of the Extended Guarantee. Such costs will be the Customer’s responsibility.

#### 4.2 EXTENDED GUARANTEE CUSTOMER RESPONSIBILITIES

The Extended Guarantee will not apply unless, following the end of the Standard 3748 Guarantee Period of Cover, the Customer will at the Customer’s own cost:

- (a) Continue to perform the Customer Responsibilities other than clause 2.2(e) under this Agreement.
- (b) Utilise William Adams’ Scheduled Oil Sampling (S.O.S.) program including infrared analysis (which is mandatory for engine and transmission oil), wear metal and physical tests, and submits samples promptly with necessary sample information at the intervals designated in the Caterpillar “Operation and Maintenance Manual” for the Product.
- (c) Carry out all scheduled services and inspections in accordance with the Caterpillar “Operation and Maintenance Manual” for the Product.
- (d) Have William Adams inspect and report on the Product each 1,000 hour service.

#### 4.3 EXTENDED STANDARD 3748 GUARANTEE

The Customer will have the option at the commencement of this Agreement or at any time prior to the expiry of the Period of Cover to extend all the benefits of the **Standard 3748 Guarantee** up to 3 years or 6,000 hours, whichever occurs first for eligible Products by entering into a separate Customer Support Agreement (CSA) for additional scheduled services and inspections to cover the Product from 2,400 / 3,700 / or 4,800 hours (whichever is applicable) up to a maximum of 4000 or 6,000 hours (based on the Extended Guarantee Period applicable to this Product as per the Schedule).The cost of the additional scheduled services and inspections will be as quoted by William Adams at the time of the request to extend.

### 5. PRODUCT LINK

- (a) The Customer acknowledges that the Product may be fitted with Caterpillar’s equipment remote monitoring and information collection system known as Product Link and if this is the case:
  - (i) Data and information concerning the Product, its condition and operation will be transmitted to William Adams, Caterpillar and/or other Caterpillar dealers; and
  - (ii) The periodic subscription fees payable to activate and utilize Product Link are included in the purchase price of the Product for the Period of Cover but will be to the account of the Customer should the Customer wish to continue using Product Link on the termination or expiry of the Period of Cover.
- (b) The Customer grants to William Adams an irrevocable, royalty free, transferable licence to sell, sub-license, grant access to or in any other way use, all data and information created by, or provided to, William Adams (including without limitation, data and information transmitted via Caterpillar and Product Link), whether before, during or after the Period of Cover in connection with any servicing, maintenance, monitoring, repair or other dealings with the Product. William Adams’ rights under this paragraph survive the termination of this Agreement.

- (c) In this clause, “data and information” include without limitation, machine serial number and location, operational data (including but not limited to fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers), details of installed attachments, and machine service and repair history.

### 6 GENERAL CONDITIONS

#### 6.1 PURPOSE

The objective of this Agreement is to ensure the Customer receives the benefits of consistent, managed maintenance of the Product including repair before failure, resulting in greater reliability, less costly down-time, lower and known operating costs.

#### 6.2 EXCLUSIONS AND LIMITATIONS

Notwithstanding any other provisions contained in this Agreement:

- (a) Failure, damage, loss or breakdown of the Product caused by normal wear and tear, deterioration or arising directly or indirectly from any wilful, negligent or reckless act or omission of the Customer or any other person (other than William Adams), or from or in connection with a breach or non-performance of any of the Customer Responsibilities are not covered under the Standard 3748 Guarantee or Extended Guarantee. Failures, damage, loss or breakdowns due to collision, the use or failure of Excluded Items, vermin, theft, riot, explosion, accident, acts of nature, water, freezing, chemical, physical and mechanical erosion, contaminated lubricants introduced by the Customer or any other person (other than William Adams), flood, fire, vandalism, terrorism, abuse or unauthorised repair or adjustment of the Product or if the Product has in any way been dealt with contrary to an instruction or recommendation issued or given by the manufacturer or William Adams are not covered under the Standard 3748 Guarantee or Extended Guarantee.
- (b) Except to the extent that liability cannot lawfully be excluded, in no event will William Adams be liable for any costs, claims, demands, expenses or liabilities of any nature, including, without prejudice to the generality of this clause, claims for the failure of the Product or of any Excluded Items to operate for any period, death, personal injury, damage to property, loss of profits and consequential loss (including loss of profits), which may be made against William Adams or which William Adams may sustain, pay or incur as a result of or in connection with this Agreement whether caused by the negligence of William Adams or for any other reason, and the Customer will keep William Adams indemnified in relation to all such claims. In this paragraph “liabilities” means all liabilities whatsoever and howsoever arising and without limiting the generality of the foregoing, includes liability in tort (including liability for negligence), contract, statute, equity or other legal principle and any liability for consequential loss including loss of profits or damage of any kind howsoever caused or arising.
- (c) This Agreement does not in any way reduce or limit the Customer’s rights under any Caterpillar Product Improvement or Product Support program applicable to the Product.
- (d) Except to the extent that liability cannot lawfully be excluded the maximum amount payable by William Adams during the term of the Agreement will not exceed one half of the purchase price of the Product.
- (e) All statutory or implied conditions and warranties are excluded to the fullest extent permitted by law and to the fullest extent permitted by law, William Adams’ liability under any condition or warranty which cannot legally be excluded is limited to:
  - (i) in the case of goods, the replacement of the goods or the supply of equivalent goods;
  - (ii) in the case of services, supplying the services again or paying the cost of having the services supplied again.
- (f) The Standard 3748 Guarantee and Extended Guarantee will not apply:
  - (i) to:
    - A. any non hydraulic hose (other than for its expected life), buckets, non Caterpillar attachments, tyres and rims, wipers, belts, glass, lenses, globes, mats and panel hardware; and
    - B. specific machine parts, components or systems which are already covered by other specific warranty documents, where applicable, which include, but are not limited to:
      - Machine Control and Guidance Products (see separate Warranty Statement);
      - Ground Engaging Tools (see separate Warranty Statement);
      - Caterpillar Work Tools (see separate Warranty Statement);
      - Caterpillar Tyre Warranty (see separate Warranty Statement) (collectively the “Excluded Items”).
  - (ii) whenever the Product is operated outside William Adams’ dealer territory unless, at the request of the Customer, William Adams has in its absolute discretion agreed otherwise in writing.
  - (iii) when any delay results from strikes affecting Caterpillar, William Adams, suppliers, or carriers, acts of God or other occurrences beyond William Adams’ control.
  - (iv) to any cost, expense, loss or damage which is recoverable by the Customer from insurance, warranty or other extended service contract.
  - (g) The scheduled services and inspection of the Product included in the Dealer Responsibilities does not extend to:

- (i) the consumption of maintenance/consumable items (such as grease and top up lubricants).
- (ii) any increased maintenance requirement over and above the manufacturer’s recommendations due to the use of attachments such as hydraulic hammers or caused by the environment or application in which the Product is located or operated.
- (h) William Adams will provide replacement air cleaner elements for scheduled services and inspections occurring every 1,000 hours for primary elements and every 2,000 hours for secondary elements. Extra replacement air cleaner elements provided or required at all other times will be at the Customer’s expense.
- (i) The Standard 3748 Guarantee and Extended Guarantee will not apply for cover costs to improve operating performance due to normal wear and tear or the gradual reduction in operating performance where a breakdown has not occurred. This includes but is not limited to engine tune-up, adjustment to fuel settings or electronic unit injectors, valve and ring repairs designed to improve engine compression or reduce oil consumption, hydraulic system pressure and flow adjustment.
- (j) William Adams will not be liable for any claims made by the customer later than one (1) month after the expiry or termination of this Agreement.

#### 6.3 OTHER ITEMS

- (a) This Agreement will be binding on and enforceable by the successors and permitted assigns of each party. William Adams may assign any of its rights or obligations under this Agreement without the Customer’s consent. The Customer may not assign the benefit of this Agreement without the prior written consent of William Adams who may in its absolute discretion withhold or refuse to give its consent.
- (b) The Standard 3748 Guarantee and Extended Guarantee are given by William Adams exclusively and are not binding on Caterpillar or any other Caterpillar dealer. The Caterpillar standard 12 month warranty is incorporated in the Standard 3748 Guarantee and/or Extended Guarantee and do not have any effect on that warranty.
- (c) Caterpillar conducts Product Improvement Programs from time to time to improve machines sold to customers. In the event that the Product is subject to such a program, the 48 hour guarantee will not apply to the product update, however William Adams will wherever reasonably possible, endeavour to schedule any such product improvements at such times convenient to the Customer.
- (d) Wherever used in this Agreement:
  - (i) “repair” means the repair or replacement of the components necessary to return the Product to its pre-failure condition, not additional items to update the Product or make it “like new”. William Adams will have a discretion to use new, remanufactured or Caterpillar approved repaired parts or assembled components needed to carry out the repair.
  - (ii) “breakdowns” mean those mechanical failures notified to William Adams by the Customer which render the Product inoperable, or prevent the Product from being operated in a safe manner in accordance with the Caterpillar “Operation and Maintenance Manual”, or which will escalate the damage being sustained to the Product such that the damage to the Product becomes, or could become material.
- (e) All notifications (whether verbal, written or otherwise) (“**notice**”) which are required to be given by the customer to William Adams under this Agreement, will only be treated as having been given at the time when receipt of the notice is confirmed (whether verbally, in writing or otherwise) to the Customer by William Adams. A receipt or other acknowledgment generated automatically by computer or any other automatic means at the time when the notice is delivered or opened will not be treated as confirmation by William Adams of the receipt of the notice.
- (f) Any part of the Product replaced by William Adams under this Agreement will only be covered for the remaining Period of Cover and any replaced part will become the property of William Adams or Caterpillar.
- (g) Except where stated otherwise, all amounts payable or any consideration to be provided by the Customer under this Agreement are exclusive of GST. If GST is imposed on any supply made by William Adams under this Agreement, the Customer will pay or reimburse to William Adams, an amount equal to the GST payable by William Adams on the relevant supply.
- (h) This Agreement is the entire agreement between William Adams and the Customer in relation to the subject matter of this Agreement, namely the Standard 3748 Guarantee and Extended Guarantee and any prior representations, arrangements or undertakings are superseded by this Agreement. The Customer acknowledges and warrants to William Adams that it has not relied on any representation, warranty or promise not contained in this Agreement.
- (i) This Agreement is governed by the law in force in the State of Victoria or Tasmania in which this Agreement is signed by William Adams as indicated herein and the parties irrevocably and unconditionally submit to the nonexclusive jurisdiction of the courts of that State and courts of appeal from them for determining any dispute concerning this Agreement or the transactions contemplated by this Agreement.
- (j) William Adams’ failure to or delay in exercising a power or right does not operate as a waiver of that power or right.
- (k) Any amendment or variation to this Agreement is only effective if it is in writing and signed by both parties.