

RENTAL EQUIPMENT PROTECTION TERMS AND CONDITIONS

Rental Equipment Protection (“**REP**”) is a product that modifies certain terms of the Agreement between MacAllister and Lessee for the lease of the Equipment. The Rental Agreement Terms and Conditions found at www.macallister.com/rentalterms apply here and are incorporated by this reference.

1. **Lessee’s Obligations.** Lessee is responsible for the Equipment as provided in the Agreement, including returning the Equipment to MacAllister in the same condition it was received, less ordinary wear and tear. If Lessee purchases REP, Lessee’s obligation to repair or return lost or damaged Equipment may be limited as provided in these terms and conditions (“**REP Terms**”).
 2. **REP Is Not Insurance.** REP is not insurance and is not a warranty. Instead, REP is a product that modifies Lessee’s liability for physical loss or damage to the Equipment under Section 14 of the Agreement. REP does not protect Lessee in any way from liability arising out of the use, possession, or operation of any Equipment for events such as injury, death, or damage to persons or other property. REP is intended for physical damages or loss to the Equipment only.
 3. **Purchase of REP.** Lessee agrees to purchase REP and pay the Fee (defined below) for the specific items of Equipment rented only if Lessee does not have the insurance coverage required in the Agreement to cover the Equipment against loss at any time during the Rental Period.
 4. **Lapse or Expired Proof of Insurance.** If Lessee is charged for REP due to circumstances such as a lapse in insurance coverage or an expired certificate of insurance, such charges may be reimbursed, and REP will be void and inapplicable in the sole and absolute discretion of MacAllister, if it is later shown that Lessee had insurance in place covering any loss.
 5. **Limitation of Liability.** Lessee is responsible for the Equipment as provided in the Agreement. Upon Lessee’s purchase of REP, and subject to the terms and conditions in these REP terms, MacAllister will limit the amount due from Lessee under Section 14 of the Agreement for loss, damage, or destruction to the Equipment, up to \$250,000 per incident, to the following amounts (“**Claim Limit**”):
 - (a) For Equipment valued under \$25,000, Lessee’s Claim Limit is \$1,000
 - (b) For Equipment valued from \$25,000 up to \$50,000, Lessee’s Claim Limit is \$2,500
 - (c) For Equipment valued \$50,000 or more, Lessee’s Claim Limit is \$5,000
- MacAllister will determine the value of Equipment in its sole and absolute discretion in the Equipment’s then-current condition at the beginning of the Rental Period.
6. **Conditions.** For REP to apply, all the following conditions must be satisfied:
 - (a) Lessee does not have the insurance coverage required under the Agreement;
 - (b) Lessee pays MacAllister the fee for REP of 15% of the gross rental charges due and owing (inclusive of taxes and fees) (“**Fee**”), the Claim Limit, and any loss amount in excess of \$250,000;
 - (c) Lessee is not in breach of, and fully complies with, any and all the terms and conditions of REP and the Agreement;
 - (d) Lessee is current on its account with MacAllister at the time of loss, theft, damage, or destruction to the Equipment;
 - (e) Lessee notifies MacAllister in writing of any lost, stolen, damaged, or destroyed Equipment within 24 hours of discovery or when reasonable discovery should have occurred; and
 - (f) None of the Exclusions below apply.

7. **Exclusions.** An “**Event**” is any loss to the Equipment including, but not limited to, losses caused by theft, accident, misuse, damage (other than ordinary wear and tear), or destruction of the Equipment. Notwithstanding anything herein to the contrary, Lessee assumes all risk and will remain fully liable for all loss or damage to Equipment, and REP will not cover and will neither limit Lessee’s liability nor waive MacAllister’s right to claim damages from Lessee, for an Event caused by, resulting from, or relating to, directly or indirectly, any of the following as determined by MacAllister in its sole and absolute discretion (each an “**Exclusion**”):
- (a) Neglect, willful misconduct, abuse, gross negligence, misuse, negligence, improper use, or wrongful application of the Equipment;
 - (b) Use or operation outside of the manufacturer’s specifications, including overloading, exceeding rated capacity or speed limit, or improper or lack of routine maintenance or inspection, and weight of load exceeding the lifting capacity of Equipment under weather or ground conditions;
 - (c) Transit of Equipment;
 - (d) Failure to properly and reasonably secure Equipment when unattended or not in use;
 - (e) Unexplained or mysterious disappearance, theft, loss, vandalism, or wrongful conversion, unless Lessee files or commences a claim with the applicable public authorities within 24 hours;
 - (f) Order of any civil authority, including seizure or quarantine of property;
 - (g) Loss of use, delay, or loss of market;
 - (h) Failure to cooperate with MacAllister or its agents in investigating the Event;
 - (i) Fluid contamination or cross-contamination, such as diesel fuel in the hydraulic tank; or
 - (j) Use or operation of the Equipment by a third-party;
 - (k) Use or operation of the Equipment in any of the following applications: (i) land clearing with a Fecon or XHP Attachment; (ii) demolition; or (iii) paint overspray; or
 - (l) Anything, where the Equipment is the following: any (i) crane, (ii) lift that is 87’ or greater, (iii) plated trucks or vehicles; or (iv) excavator that is a long-reach model or has an operating weight greater than or equal to a Caterpillar model 315.
8. **Recovered Equipment.** If lost or stolen Equipment is later recovered, MacAllister retains ownership of the Equipment regardless of any payments made by Lessee, its insurer, or any other party with respect to such Equipment, all of which are non-refundable. Lessee further agrees to promptly return to MacAllister any lost or stolen Equipment that is recovered.
9. **Subrogation and Assignment of Claims.** MacAllister will be subrogated to Lessee’s rights to recover against any person or entity relating to any loss, theft, damage, or destruction to the Equipment. Lessee will cooperate with and assign MacAllister all claims and proceeds arising from such loss, theft, damage, or destruction, and will execute and deliver to MacAllister whatever documents are required and take all other necessary steps to secure in MacAllister such rights.
10. **Rent Accrual.** Rental charges that would otherwise accrue under the Agreement during the period when damaged or destroyed Equipment is being repaired or replaced will stop accruing upon Lessee’s payment and MacAllister’s receipt of the Fee and the Claim Limit.