VisionLink Subscription Agreement

Finning (Canada) a division of Finning International Inc.
16901 109th Avenue, Edmonton AB T5P 4P6
1(888) Finning 1(888) 346-6464

1. Customer Information **Contract Number:** _____

CUSTOMER INFORMATION		
Company Name:		
Contact:		Email:
Address:		City / Province / Postal Code:
Phone Number:		Fax Number:
FINNING INFORMATION		
Facility:	Account Number:	Sales Rep.:

2. Definitions

- "Agreement" means this VisionLink Agreement and includes the VisionLink™ Asset Management Service – Terms of Use and End User License, available online in VisionLink. Agreement is deemed to form a part of, and be incorporated by reference into, this Agreement.
- "Caterpillar" means Caterpillar Inc.
- "Customer" means the Customer identified in Section 1, "Customer Information".
- "Device" means electronic devices and associated hardware that report data into VisionLink.
- "Machine" means a machine that is owned, leased, rented or otherwise under the care and control of a Customer, including mobile and non-mobile items, and includes Caterpillar and Non-Caterpillar machines.
- "Machine List" is the customer's subscribed machine population in VisionLink that is maintained by Finning.

"Finning" means Finning (Canada) a division of Finning International Inc.

- "Service Fee" means fees the Customer agrees to pay for the repair and servicing of the devices and hardware by Finning that are installed on a Machine.
- "Subscription Fee" means the fee charged to the Customer by Finning for the use of the VisionLink Subscription.
- "VisionLink Subscription" means access provided to Customer by Finning to the VisionLink Web Application for viewing information pertaining to Customer Machine(s) that have a VisionLink Subscription.

3. VisionLink Subscription

Pursuant to this Agreement, Finning agrees to provide VisionLink Subscriptions to the customer for the Devices attached to the customer's Machines. The record of Machine List with purchased Subscriptions shall be maintained by Finning. The Customer acknowledges that Finning's record of the Machines for which a Subscription is purchased is conclusive, and in the event of a conflict between Finning's record and any other record, the former shall prevail.

The Customer shall be solely responsible for informing Finning of any change to the Machine List records by emailing the changes to visionlink@finning.ca, unless otherwise specified. All changes are required to be submitted within the month of the requested change. The changes comprise some or all of the following: subscription upgrade or downgrade, device transfers, device replacement, device activations and device deactivations.

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Device activations require the submission of the online hardware activation form by the customer or by Finning if Finning is performing the installation.

Device deactivations are required to be submitted prior to the last business week of month and will be processed during the last business week of that month. The changes will be reflected on the next invoice after one full billing cycle. Deactivation requests received after this cut off will be processed in the following month. Pre-paid services or up-front payments are non-refundable.

The Customer may request that a device be transferred from one Machine to another by Finning at an additional cost to the Customer. Such request may be made to Finning. If Finning agrees to transfer the device as requested, such work will be performed as per Finning standard rates. All terms and conditions of the original Agreement applicable to that Machine will remain in full force and effect until transfer notification has been received by Finning.

For administration purposes Finning will provide the Machine List upon request by the Customer.

4. Pricing and Payment

The Customer agrees to pay a Subscription Fee for the use of the VisionLink Subscription. The attached Machine List defines the initial activated devices, subscriptions, pricing and billing terms and is current as of signing of this contract that will be reflected on the first invoice. Subsequent invoices represent the subscribed devices and associated machines during the invoice period, in accordance to section 3 VisionLink Subscriptions. Purchased Subscriptions Fees are in effect regardless of machine operation or device operation.

The Subscription Fees and any other charges referred to in this Agreement do not include applicable taxes. Upon providing notice to the Customer, Finning may change the Subscription Fee and other terms and conditions of this Agreement from time to time. Reasons for potential price changes may include but are not limited to the following:

- Increases in or reduction of supplier costs;
- Additional functionalities;
- Introduction of new technologies.

The Customer shall pay the amount stated on an invoice issued by Finning or any other amounts payable as stated herein upon receipt of invoice.

The Customer shall pay additional charges as specified by Finning from time to time in relation to device activation.

Without limiting or reducing any other obligations that the Customer has to Finning under this Agreement, the Customer shall pay Finning for out of pocket costs for travel expenses reasonably and properly incurred by Finning in carrying out the relevant work. All travel shall be pre-approved by the Customer and the Customer shall make every effort to arrange and provide the air travel. An interest charge of 18% per annum, calculated and payable monthly, will be charged by Finning on all overdue amounts calculated from the payment due date until payment has been received by Finning in full. Finning shall have the right to change the interest rate upon written notice to the Customer.

In the event that the Subscription Fee is subject to a time-limited promotion, on the expiry of the time limit, Finning will issue an invoice in the amount of the applicable Subscription Fee, unless a device deactivation is submitted by the customer to Finning within 30 days of the expiry date and in accordance to section 3 VisionLink Subscriptions.

Finning promotional credits may be applied to the customer's account however the monthly subscription billing for VisionLink will remain unchanged.

5. Suspension of VisionLink Subscription

The Customer shall be solely responsible for updating and maintaining its equipment and software as necessary to meet Finning standards, which shall be communicated to the Customer from time to time. Finning may suspend or restrict the VisionLink Subscription on a Machine if Finning determines in its sole discretion that it is necessary to do so to maintain, restore or repair any part of a VisionLink Subscription, or for any other reason. If the VisionLink Subscription is suspended or restricted as described herein, the Customer shall permit and reasonably assist in Finning maintaining, restoring or repairing the VisionLink Subscription and acknowledges that during such time, the VisionLink Subscription may not be available.

6. Servicing of Hardware Fee

Service Fees, if applicable, are due and payable to Finning in accordance with the terms and conditions of Finning's invoice for such fees.

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7. No Warranty

No warranties, conditions, guarantees or similar obligations, whether express or implied by fact, by law, including any statute or regulation, by custom or trade usage, or by any course of dealing, including but not limited to any implied warranties or conditions or merchantability or fitness for purpose or fitness for a particular purpose, are applicable under this Agreement.

8. Termination

This Agreement may be terminated on 45 days written notice by either party provided that all monies owing to Finning, including without limitation Subscription Fees owing up to and including the date of termination, have been paid. If the Customer is exercising its rights under this provision it must provide written notice to Finning in accordance to Section 3 VisionLink Subscriptions.

9. Force Majeure

"Force Majeure" means an event or circumstance that is beyond the reasonable control of a party and that prevents or delays that party in the performance of any of its obligations under this Agreement, including but not limited to a labour strike, threat of strike lockout, labour slowdown or other labour disruption or dispute, and a delay or failure by a subcontractor, or sub-supplier, fire, flood, interruption of delay in manufacture or transportation, act of nature, war, insurrection, mob violence, requirement of governmental authorities, embargo, shortage of labour, equipment or materials and plant breakdown.

If a party is prevented or delayed in performing its obligations other than a payment obligation by Force Majeure, that party is not liable to the other party for failure to perform those obligations. The time for performance is deferred to the extent and for so long as performance is prevented or delayed and the completion, delivery and other dates contemplated under the Agreement shall be adjusted if necessary to accommodate the effects of Force Majeure.

The party entitled to relief under this provision must give prompt notice to the other party of Force Majeure, with reasonable particulars.

10. Limitation of Liability and Indemnity

Finning, its employees, agents and contractors shall not under any circumstances be liable for personal injuries (including death) to any person (including the Customer) or for any loss or damage to property or business either direct, indirect or consequential whether to parts, components or a Machine or device or to any other property, caused or contributed to by the VisionLink Subscription, service work performed hereunder or by the delivery, operation or possession of parts, components or the Machine or device by Finning or by any other persons or by any default or negligence of Finning, its employees, agents and contractors or by any other cause or reason whatsoever.

In addition, in no case shall Finning be liable for loss of profits, income or use of parts, components or the Machine or device, whether or not caused or contributed to by the negligence or default of Finning. This limitation of liability shall survive the termination or expiration of this Agreement.

The Customer hereby indemnifies Finning against all losses, damages, claims, demands, proceedings, costs, charges and expenses (including legal fees and expenses) in respect of loss or damage to third parties which are caused by the Customer, the Customer's personnel and/or subcontractors, whether personal injury, death and/or damage to property arising directly or indirectly from anything related to the subject matter of this Agreement.

11. Consequential Damages

Finning shall under no circumstances incur any liability whatsoever for any indirect, consequential or economic loss including loss of profits, income or use of parts, components or the Machine or device whether or not caused or contributed to by the VisionLink Subscription or whether or not such delay or failure is due to causes within the control of Finning and whether or not those causes were in existence or known to Finning as of the date hereof.

12. No Waiver

No party is to be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any such right is to be

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deemed to be a waiver with respect to any other instance involving the exercise of the right or with respect to any other such right.

13. Use of Terms

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

14. Governing Laws and Applicable Taxes

This Agreement shall be governed by and construed in accordance with the laws of the province or territory in which Customer has executed this Agreement.

Customer shall pay and discharge when due all license fees, assessments, and all taxes, including all sales, use, property, rental, excise, goods and services and other taxes and duties now or hereafter imposed by any federal, provincial or local government or taxing authority upon the goods or services which are the subject matter of this Agreement (except income taxes payable by Finning) whether the same are payable by, or billed or assessed to Finning or Customer, together with any penalties or interest in connection therewith.

15. Entire Agreement

The provisions set forth herein constitute the entire agreement between Finning and the Customer with respect to the subject matter hereof and supersede all previous communications, representations and agreements whether verbal or written between Finning and the Customer. This Agreement may not be modified except in writing by both parties.

16. Signatures

Customer	
Company Name:	
Per:	Date:
Print Authorized Signatory's Name:	Title:

Finning	
Per:	Date:
Print Authorized Signatory's Name:	Title:

Customer – provide signed copy to your Finning representative.
Finning sales rep – email signed copy to visionlink@finning.ca