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October 25, 2013

# VIA OVERNIGHT DELIVERY

Federal Election Commission Office of General Counsel 999 E Street, N.W. Washington, D.C. 20463

Dear Sir or Madam:

This firm represents Yamaha Motor Corporation, U.S.A. in its efforts to establish a separate segregated fund. Its parent company, Yamaha Motor Co., Ltd. ("YMC"), was started in 1955. Yamaha Motor Corporation, U.S.A. ("YMUS" or "Yamaha") is the wholly owned subsidiary of YMC. YMUS is the distributor of various motorized products manufactured by YMC, as well as Yamaha Motor Manufacturing Corporation of American ("YMMC") and Tennessee Watercraft, Inc. (TWI) in the United States. Such products include motorcycles, all terrain vehicles, scoolers, snowmobiles, golf carts, outboard engines, personal watercraft and jet boats. YMUS' Marine Division is responsible for the sale and distribution of cutboard engines under the Yamaha brand name.

Yamaha wishes to create a separate segregated fund ("SSF") to contribute to federal candidates and raise funds from its dealers and service centers. There are two types of businesses from which Yamaha wishes to raise funds related to its Marine Division: (1) Dealers, which provide retail sales and service of Yamaha products; and (2) Service Centers, which service Yamaha products and sell Yamaha outboard motors packaged with a boat, but do not sell loose Yamaha outboard motors, and mainly provide servicing functions.

Pursuant to 11 C.F.R. § 112.1(b), Yamaha seeks an Advisory Opinion regarding the following items: (1) whether Yamaha, as an organization that operates primarily through dealers and service centers, may solicit PAC contributions from the executive and administrative personnel of its Dealers; and (2) whether Yamaha, as an organization that operates primarily through dealers and service centers, may solicit PAC contributions from executive and administrative personnel of its Dealers; and (2) whether Yamaha, as an organization that operates primarily through dealers and service centers, may solicit PAC contributions from executive and administrative personnel of its Service Centers.

Yamaha distributes its marine products through a network of Dealers and Service Centers that are separate corporate entities from Yamaha. Due to the level of control Yamaha exercises over its Dealers and Service Centers, we believe that under the Federal Election Campaign Act ("FECA"), FEC regulations, and advisory opinions, the executive and administrative personnel, stockholders, and families of Yamaha's Dealers and Service Centers can be solicited as licensees pursuant to 11 C.F.R. §§ 114.5(g)(1) and Advisory Opinions 1992-7, 1988-46 and 1985-31. However, necognizing the very fact-specific nature of these questions, Yamaha seeks an Advisory Opinion confirming that the proposed solicitations comply with the FECA and its attendant regulations.

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Yamaha previously sought an advisory opinion from the Commission, filed as Request No. 2012-37. The Commission was unable to reach a conclusion on the proposed Advisory Opinion in December 2012. Yamaha has narrowed the scope of this request from its original request.

# FACTUAL BACKGROUND

YMUS is a California corporation which is the wholly owned subsidiary of YMC. YMUS is the distributor of various motorized products manufactured by YMC, YMMC, and TWI. Such products include motorcycles, all terrain vehicles, scooters, snowmobiles, golf carts, outboard engines, personal watercraft, and jet boats. Yamaha's Marine Division is responsible for the sale and distribution of oniboard engines under the Yamaha brand nume. The President of the Marine Division is empowered by the Board of YMUS to manage and oversee the operations of the Marine Divisien, and would be empowered to solely manage and oversee the operation of its SSF.

Yamaha sells its products through an extensive network of Dealers and Service Centers. All of the Dealers and Service Centers have the right to use Yamaha's trademarks as part of their advertising, and would be considered by the public to be affiliated with Yamaha, even though none of the Dealers and Service Centers are owned by Yamaha.

The Dealers and Service Centers are closely affiliated with Yamaha. Dealer and Service Center agreements, discussed below, demonstrate that Yamaha exercises control over the hours of business, display and inventory, and facilities. Yamaha controls who manages the Dealers and Service Centers. Yamaha reviews detailed financial information of its Dealers and Services Centers beyond just sales of Yamaha products. Yamaha evaluates the performance of its Dealers and Service Centers based on factors beyond the volume of sales, also reviewing the manner of advertising, treatment of customers, and sales promotions. Yamaha's agreements with its Dealers and Service Centers can be terminated if they do not meet the standards outlined by Yamaha.

There are two standard agreements used by Yamaha: (1) the Dealer Agreement (attached as Ex. A); and (2) the Outboard Motors Service Center Agreement (attached as Ex. B). Each one is explained below.

# 1. The Dealer Agreement

Yamaha's Dealers provide retail sales and service of Yamaha products throughout the country. After completing an application process, Dealers are selected by Yamaha to sell its products to retail customers and are the exclusive method by which retail customers are able to purchase new Yamaha products. Most Dealers are small- to mid-sized corporations and while some dealers sell other marine products, most exclusively deal in Yamaha products.

The process for becaming a Yamaha Dealer involves a minimum of four steps:

1. The initial contact can come from the prospective dealer to Yzmaha or by Yzmaha to a prospective dealor.

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- 2. Yamaha then conducts an analysis of the market and the District Marketing Manager (DMM) reviews the prospective dealer's capabilities. That review includes the prospective dealer's financials, hoat lines sold, shop location, management in place, inspection of the store, and potentially other factors the DMM thinks are relevant.
- 3. If Yamaha and the prospective dealer agree that it would be beneficial to move forward, the prospective dealer then officially "applies" to become a dealer. This includes the Dealer Agreement attached to this request, but the paperwork makes clear it is only an application until the management of Yamaha's Marine Division accepts the application.
- 4. Once Yamaha accepts the application, it executes a Dealer Agreement and a dealer number is provided, along with setup for dealer training.

In order to be considered for a dealurship, Dealers have to disclose a significant amount of financial and credit information to Yamaha. After being selected, prospective Dealers then must complete a number of training requirements, including operational training and training on servicing Yamaha products. Achieving higher levels of certification from Yamaha (which can be used in advertising) requires additional online training modules. Some training takes place online and other training takes place in one of two physical training locations operated by Yamaha.

Each Doaler is assigned a DMM, who visits each location no less than each quarter (and usually monthly) to evaluete the displays, setup of the stere, and the Dealer's operations. Yamaha's control over the Dealer extends to more than just the setup of its own products, because it also includes the overall store and the placement of specific products from Yamaha with prominence.

Yamaha requires that Dealers purchase a sign with the Yamaha logo and does not grant a license to use its mark to its Dealers. Instead, Yamaha retains control over the Yamaha marks through a Yamaha Visual Identity Manual and review of Dealer advertisements. Dealers are not required to obtain preapproval of advertisements that use Yamaha's marks and follow the Manual. But Dealers must submit all advertisements for approval in order to receive reimbursement. Yamaha does not provide a full reimbursement for the costs of the advartisement, but reimhurses a significant portion of the costs.

In addition, Yamaha's control over its Dealers includes continuing evaluations of the financial performance and health of Dealers, the hours of business, and the required purchase of special tools to service Yamaha products. Yamaha also prohibits the assignment of the agreement with the Dealers because of the personal nature of the agreement.

The Dealer Agreement lays out these requirements for Yamaha Dealers and defines the relationship between Yamaha and its Dealers. Sections 2.4 through 2.10 specifically state the variety of criteria that must be followed in order for a Dealer to serve in that capacity for Yamaha:

**2.4 Performance Criteria**. Dealers level of performance may be evaluated periodically by Yamaha, based on reasonable criteria such as the following:

(a) The volume of Dealers sales of the Products as compared with the sale of competitive products in the market area sorved by Dealer's Location.

(b) The volume of Dealers sales of the Products as compared to other dealers of the Products.

(c) The actual sales volume of the Products by Dealer as compared to the reasonable annual sales objectives which may be established by Yamaha for Dealer.

(d) The manner in which Denler has conducted its sales operations including advertising, sales promotion and treatment of consumers.

(e) The trend over a reasonable pariod of time of Dealer's sales performance.

(f) The availability of Products to Dealer.

(g) Significant local conditions that may have directly affected Dealers performance.

(h) The compliance with all of the terms and conditions of this Agreement.

Evaluations prepared pursuant to this Section 2.4 will be discussed with and provided to Dealer, with the expectation that Dealer will take such action as may be required to correct any deficiencies in Dealers performance of its responsibilities.

**2.5 Customer Relations.** Dealer shall at all times conduct its operations in such a manner so as to develop and maintain good customer relations. Dealer shall provide prompt and courteous service to customer inquiries and complaints relating to the Products. Dealer shall at all times properly represent the Products and shall not make, directly or indirectly, any false, misleading, or disparaging representations to any customer or other person in regards to Yamaha or the Products.

**2.6** Liours of Busineos. Dealer agrees that its operations shall be nonducted in the nonnal eourse of business during usual business hours and for not less than the usual number of days of the week and hours of the day which are customary for the same type of business in the market area served by Dealer's Location.

**2.7. Display and Inventory**. Dealer agrees to maintain a prominent display of a reasonable representation of the entire line of the Products at Dealer's Location, which display shall be in accordance with the guidelines established by Yamaha. Dealer also agrees to maintain a reasonable inventory of the Products which is adequate to meet the current and anticipated demand in the market area served by Dealer's Location, subject to availability and to guidelines established by Yamaha.

2.8 Report and Recerds. in order that Yamaha may comply with applicable regulations and achieve its marketing objective, Dealer shall report to Yamaha, all retail salas of the Products within ten (10) days of completion of such sale. Dealer shall periodically provide to Yamaha complete and accurate data regarding Dealer's inventories of the Products and such other reasonable information as and when requested by Yamaha. Dealer shall keep complete and accurate records regarding sales and service activities for the Products, applications for discounts, allowances, warranty claims, refunds and credits and shall retain for at least three (3) years all such records and documents. Dealer shall permit any designated representative of Yamaha, at reasonable times, to examine and audit such records and documents.

**2.9 Cooperation with Yamaha**. Dealer shall at all times cooperate and work closely with Yamaha's representatives and shall meintain cleae communications with such representatives in regards to Dealers operations hereunder.

2.10 Facilities. Dealer shall establish and maintain the appearance and condition of the facilities at Dealer's Location so as to favorably reflect on the Products and the quality image of Yamaha. As part of the facilities at Dealer's Location, Dealer shall install and maintain prominent and suitable signs as recommended by Yamaha, which identify Dealer as a dealer of the Products. Dealer agrees to maintain the facilities in a neat and orderly fashion and in accordance with the standards established by Yamaha which request to appearance, location, size, layout of building, shewroom, office, perts department and service operation. Yamaha may periodically evaluate Dealer's facilities. Dealer shall permit any designated representative of Yamaha, at reasonable times, to inspect the facilities and Dealer agrees to make such alterations or improvements to the facilities as Yamaha may reasonably specify.

Other provisions of the Agreement are also relevant: Yamaha undertakes efforts within its sole discretion to provide sales assistance to Dealers (Section 5.2) and to allow Dealers to use Yamaha's trademarks (Section 5.4). The Dealers' use of Yamaha's trademarks is not a license, but Yamaha retains control of the use of its marks. Assignment is prohibited because of the personal nature of the agreement (Section 7.1).

Yamaha also requires Dealers to submit financial reports and financial information to Yamaha on a regular basis:

**5.5 Financial Responcibility.** Dealer shall maintain for its operations hereunder adequate working capital and lines of wholesale credit to enable Dealer to fulfill its responsibilities under this Agreement. Dealer further agrees to comply with financial responsibility guidelines issued by Yamaha from time to time. Dealer agrees to furnish Yamaha, at reasonable times, financial reports and other financial data in a format acceptable to Yamaha to enable Yemsha to detarmine Dealer's financial responsibility. At least within ninety (90) days following the close of Dealer's fiscal year, Dealer agrees to aubmit to Yamaha.

# 2. The Outboard Motors Service Center Agreement

In addition to its Dealers, Yaaiaha also selects entities to serve as Service Centers that do not sell loose Yamaha outboard motors to retail customers but instead provide warranty and other service on Yamaha products and sell boats powered by Yamaha outboard motors provided to them by boat builders ("Packaged Products"). Service Centers may provide some sales of parts as part of the service process, but otherwise only sell Packaged Products and do not sell loose Yamaha outboard motors. Service Centers are chosen through the same process described above for Dealers.

Through the standard Service Center agreement, Yamaha exercises control over the hours of operation of the Service Centers, makes monthly to quarterly visits to check the cleanliness and operations of the locations, and requires the purchase of special tools for warranty work. Like the Dealer agreement, owners of Service Centers must undergo training from Yamaha and the agreement cannot be assigned. Yamaha also requires that Service Centers purchase a sign with the Yamaha logo and retains control over the Yamaha marks through the same Yamaha Visual Identity Manual required of Dealers.

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The Service Center Agreement provides less control over the operations of the service center than the Dealer agreement, but still controls a number of points indicatiog control over policies end practices. Specifically, the Service Center Agreement provides for hours of operation and the authority of Yamaha to inspect the records of the Service Center at any time it so chooses. The Service Agreement specifically provides:

**4.3 Customer Relations**. Service Center shall at all times conduct its operations in such a manner so as to develop and maintain good customer relations. Service Center shall provide prompt and courteous service to customer inquiries and complaints relating to the Products. Service Center shall at oll times properly represent the Products, parts and accessories and shall not make, directly or indirectly, any false, misleading, or disparaging representations to any customer or other person in regards to Yamaha or the Products, parts and accessories.

**4.4 Hours of Business**. Service Center agrees that its operations shall be conducted in the normat course of business during usual business hours and for not less than the usual number of days of the week and hours of the day which are customary for the same type of business in the market area served by Service Center location.

**4.5 Roport and Records**. Service Center shall periodically provide to Yamaba complete and accurate data regarding Service Center service activities and such other reasonable information as and when requested by Yamaba. Service Center shall keep complete and accurate records regarding service activities for the Products. Service Center shall permit any designated representative of Yamaba, at reasonable times, to examine and audit such records and documents.

**4.6 Facilities**. Service Center shall establish and maintain the appearances and condition of the facilities at Service Center location so as to favorably reflect on the Products and the quality image of Yamaha. As part of the facilities at Service Center location, Service Center shall install and maintain prominent and suitable signs as recommended by Yamaha, which identify Service Center as a service center of the Products. Service Center agrees to maintain the facilities in a neat anti-orderly factor and in accordance with the standards established by Yamaha which may be changed from time to time.

In addition, similar provisions to the Denter Agreement exist regarding the use of Yanasha's trademæks (Section 4.2), and limitations en assignment due to the personal nature of the agreement (Section 6.1).

## ANALYSIS

## 1. Solicitation of Dealers

Yamaha exercises a substantial amount of control over the business policies, practices, and procedures of its Dealers. Those Dealers are also subject to a large amount of contractual obligations to Yamaha. This is similar to the control maintained by H&R Block over its franchisees, found to be appropriate under AO 1992-7, including extensive training and oversight, regular supervisory visits, control over appearance of the facilities, requirements regarding the hours of operation, and restrictions on transferability. See also AO 1988-46 and 1979-38. The Commission reviews the factors set forth at 11 C.F.R. § 100.5(g)(4) to detenuine whether an organization is en affiliate of a corporation. Those factors include control over the governance of the other organization and the ability to control the decision making employees at the organization. 11 C.F.R. § 100.5(g)(4)(ii)(B) and (C). Federal Election Commission October 25, 2013 Page 7 of 10

Although Yamaha's dealers are not franchisees, they are licensees and Yamaha maintains a sufficient level of control over its Dealers for them to be cannidered affiliates for purposes of FECA and this Commission's regulations. The amount of control Yamaha exercises over governance extends to hours of operation, the financial health of the Dealers, and extensive reporting of sales to Yamaha. The level of control includes requiring Dealers to obtain permission from Yamaha prior to changing business location or even changing their ownership or management personnel. Yamaha controls who operates the dealerships through its limitations on control of the Dealers and limitations on assignment. These facts demonstrate affiliation between Yamaha and its Dealers that is consistent with the advance approval and control in AO 1979-38 (Hardee's).

The advance approval Yanaha requires of its Deslens is in sharp contrast to relationship of Anheuser-Busch to its wholesalers in AO 1985-07, which only required discussion of a prospective sale. Anheuser-Busch also had "limited rights" to "approve the wholosaler's designation of a Successor-Manager," but Yamaha's agreements and relationship give it broad veto power over such decisions. There is no indication that Anheuser-Busch had the authority to prevent changes of ownership and key personnel as Yamaha does in its agreements.

Unlike the limited financial reporting information submitted to Anheuser-Busch in AO 1985-07, Yamaha does not have limits on the financial information required of Dealers. It requires Dealers to submit their entire audited financial statement for the previous year and does not only receive reports about the cale and aervice of Yamaha products. Dealers must also make reports available for inspection and audit by Yamaha regarding their activities, the same requirement that existed for H&R Block franchisees in AO 1992-07.

Like the standards outlined in AO 2012-12 (Dunkin' Brands), Yamaha exercises control over the training of personnel for Dealers, the display of products and inventory, and dealings with customers. Yamaha also exercises oversight over the Dealers' hours of operation and the location, size, and layout of their buildings, showrooms, offices, parts departments, and service operations. Dealers are required to provide service to any person who has purchased a Yamaha product, even if they dld not purchase the product from that particular Dealer, and to purchase specialized tools and equipment prescribed by Yamaha to service Yamaha products. Also like Dunkin' Beaads, Yamaha regulates the advertising procees for its Dealers end only grants the authnrity to une its tradomarks in a manner specified by Yamaha and subject to its complete control.

The amount of control surrendered by the Dealers to Yamaha in exchange for becoming a Dealer is far more than a "typical business contract between two independent and separate entities" recognized in AO 1985-07. In contrast, the Dealer becomes sufficiently connected to Yamaha that it loses a significant degree of independence in the process while Yamaha exercises "pervasive supervision and direction" over the Dealer. AO 1985-07.

Yamaha's relationship with its Dealers meets the factors set forth at 11 C.F.R. § 100.5(g)(4) to demonstrate that it is affiliated with its Dealers. This is the type of control required by this Commission and should authorize a finding that Yamaha may solicit the executive and administrative personnel, and

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the families thereof, of its Dealers. 11 C.F.R. § 114.1(c). In addition, Yamaha should be able to solicit from contributions from the Dealers themselves if they are individuals ar partnerships, pursuant to AO 1988-46 and 1983-48.

## 2. Solicitation of Service Centers

While the level of control exercised by Yamaha over its Service Centers is less than the control over its Dealers, it is still substantial under 11 C.F.R. § 100.5(g)(4) and AO 1992-7. See also AO 1988-46 and 1979-38. Yamaha regulates the governance of the Service Centers in their hours of operation, customer relations, and facilities. Service Centers must make reports available for inspection and audit by Yamaha, in the same way as Dealers. Service Centers receive the same supervisory visits, training, and tool purchase requirements as Dealers. Like its relationship with Dealers, Yamaha controls whether the Service Centers can change ownership. Yamaha also regulates the advartising process for Service Centers and only grants the authority to use its trademarks in a manner specified by Yamaha and subject to its complete control.

As with the Dealers, this is the type of control required by the Commission and should authorize a finding that Yamaha may solicit the executive and administrative personnel, and the families thereof, of its Service Centers. 11 C.F.R. § 114.1(c). In addition, Yamaha should be able to solicit from contributions from the Service Centers themselves if they are individuals or partnerships, pursuant to AO 1988-46 and 1983-48.

# 3. Lack of Exclusivity in Arrangements

The lack of exclusivity in the arrangements between Yamaha and its Dealers and Service Centers should not foreclose Yamaha from soliciting the executive and administrative personnel of those entities, particularly in light of the unique nature of the marine products market.

The requirements of 11 C.F.R. § 100.5(g)(4) that the Commission reviews for affiliation are primarily about governance, not sales. In AO 1985-07 (Anheuser-Busch), the Commission looked primarily to the lack of governance and control Anheuser-Busch had over its wholesalers, while only finding the lack of exclusivity was "further evidence" beyond the governance issues. Similarly, in AO 1988-46 (Collins), the Commission focused on the governance and control exercised by the licensor over the lieensee. The regulatory focus on governance first, as opposed to exclusivity, makes sense as a matter of policy because the amount of management control exercised by a company over its licensees is what creates an affiliation beyond a "typical business contract." AO 1985-07.

Even if a Dealer or Service Center also had agreements with other marine product manufacturers who decided to form PACs and solicit the same entities Yamaha proposes to solicit, this should not prohibit a finding of affiliation between Yamaha and its Dealers and Service Centers. It is not unusual for individuals to be part of multiple solicitable classes. Individuals who serve on multiple corporate boards often will be in more than one solicitable class. For example, in Advisory Opinion 2001-07, members of the board of the Nuclear Management Company (NMC) were also executives of corporations that already had their own SSFs. The fact that those executives could be solicited to contribute to multiple

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SSFs did not prohibit NMC from establishing its own SSF and soliciting employees.<sup>1</sup> An individual who hoitis stock in more than one publicly-traded compuny is similarly within multiple solicitable classes if a company chonaes to make such a solicitation.<sup>2</sup> The fact that someone might be in multiple solicitable classes at a future point should not operate to defeat a finding of affiliation in this case.

In addition, the uniqueness of the marine products market further limits the potential effects of the requested advisory opinion. Yamaha exercises a level of selectivity in its selection of Dealers that is far closer to an exclusive franchise relationship than a non-exclusive retailer arrangement. As indicated above, Yamaha carefully studies the local market before forming a full line Dealer relationship and does not allow more full line dealers to sell Yamaha products than that particular market can bear. This is distinctly different than the desire of a manufacturer to sell its product in as many outlets as possible.

Several additional practical realities of the marine products market also limit any potential for a dramatic expansion of this Commission's past decisions, even though Yamaha's agreements with most of its Dealers and Service Centers are not exclusive. The number of marine manufacturers in the U.S. is very small (Yamaha, Mercury, Evinrude, and Suzuki are the most prominent), so even assuming that every marine manufacturer has agreements that are as intrusive as Yamaha's agreements with its Dealers and Service Centers, <sup>3</sup> Dealers could not be in the solicitable classes of more than a handful of SSFs.

The marine product market is also unlike other markets in that marine products are not sold primarily through "big box" type stores, but rather through small- to medium-sized businesses. This difference in the market allows the type of intrusive relationship between Yamaha and its Dealers, which would not be possible if Yamaha's marine products were marketed through large corporate antities. The reality is thet most Dealers have to sell multiple lines because being an exclusive Dealer of a particular branti of marine products is not economically feasible in many parts of the country.

Another feature of the marine products market is that many Dealers self-identify primarily with one manufacturer. While those Dealers may carry more than one manufacturer's products, it is unlikely that those manufacturers will choose to participate in more than one SSF because they primarily sell the products of only one manufacturer.

Thus, when considered with the unique marine products market and the Contolssion's precedent, this Commission should look beyond whether the agreements in question are exclusive and tind affiliation exists based on the pervasive supervision and direction and unique business relationship between Yamaha and its Dealers and Service Centers.

<sup>&</sup>lt;sup>1</sup> See also Advisory Opinions 2012-21 and 2007-12, finding no affiliation between organizations even though there was the potential or actual overlap in Board members serving in multiple entities.

<sup>&</sup>lt;sup>2</sup> 11 C.F.R. § 114.5(g)(1).

<sup>&</sup>lt;sup>3</sup> Yamaha is not aware of whether other marine product manufacturers require the same level of control over management personnel and financial reporting required by its dealer and service center agreements.

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# CONCLUSION

Under the Federal Election Campaign Act, its attendant regulations, and this Commission's Advisory Opinions, we believe that Yamaha's SSF may solicit for voluntary contributions from the executive and administrative personnel, and their families, of its Dealers and Service Centers. But because of the fact-specific nature of these issues, we seek this Commission's guidance through an Advisory Opinion.

If the Commission requires any additional facts or information, we will be happy to supplement this request.

Sincerely,

# STRICKLAND BROCKINGTON LEWIS LLP

Bryan P. Tyson

Enclosures (as stated)



Dealer Agreement



## YAMAHA MOTOR CORPORATION, U.S.A. SALES AND SERVICE AGREEMENT

THIS AGREEMENT is made by and between YAMAHA MOTOR CORPORATION, U.S.A., a California Corporation, having its principal office located at 6555 Katalia Avenue, Cypress, California 90630 (herainafter referred to as "Yamaka") and Dealer as Identified below.

ns		
(Corporation, U.C. Proorietorship, Parinership	referred to in the Agreement as	"Dealer")
Lisited Linity Corperation (LLC) (Complete Sec. C-2)	Sole Proprietership (Complete Sec. C-2)	Parts mainip (Complete Sec. C-2)
(Referred to in the Agreement	as "Dealer's Location")	
ement		
Name		Title
·····		President
,,		Vice President
		Secretary
······		Treasurer
Nama		Percentage of Ownership
		······································
		······································
	(Corporation, LLC, Proprietorship, Partnership, Liwited Linibility Corporation (LLC) (Complete Sec. C-2) different from above) (Referred to in the Agreement pernent Name Name	(Corporation, LLC, Proprietorship, Partnership referred to in the Agreement as    Limited Limitity Corporation (LLC)  Sole Proprietership    (Complete Sec. C-2)  (Complete Sec. C-2)    different from above)

## RECITALS

A. Yamaha is the exclusive distributor in the United States of quality products which are sold under certain trademarks owned by Yamaha ("Yameha", "RIVA" and "Rive by Yameha") and distributes parts and accessories therefor which products, parts and accessories are more specifically defined on the Addendum(s), attached hereto and made a part hereof (hereinsiter collectively referred to as the "Products").

.....

C

B. Dealer has represented as an inducement to Yamaha's entering into this Agreement, that; (1) Dealer is capable of performing the terms and conditions of this Agreement, (2) Dusler has a sufficient number of trained personnel and adequite facilities to sell and service the Fruducts. and (6) Dealer the appropriate fills will recourse to polition the municipy alimenta incella.

C. Design designs to engage in calls of the Pardusts inscrimtly with the tensor and conditions hereof; and Yamaha desires to app Dealer as a rotalization and arrivice location for the Products in accordance herewith.

Yamaha and Duillar sgrue to govern their relationship in accordance with the fullywings

## 1. ESTABLIMMINIT OF RELATIONSHIP

**.** .

1.1 Approvement of Detter, Yassalis handly ppelles Dates as an authorized dealer for the area and service of the Pariluote, and Dealer hereby accepts such appointment. Yamaha and Desler agree that Dealer

shall only sell the Products to retail consumers and shall not sell or otherwise transfer the Products to any other dealer except those dealers authorized by Yamaha to sell and service the Products.

1.2 Location of Dealer. In order to enable Yamaha to maintain an effective network of authorized Yemsha dealers, Dealer agrees not to directly or indirectly sell or affer for sale the Products from any location other than from Dealer's Losstian.

1.3 Change of Location. Design agrees not to change Design's Location or establish or operate any other location for the sale or service of this Products without officiality "fumilies"s prior written approval of such proposed cirsage, Viennette's approval situit notibe explicituit approved cirsage. Viennette's approval situit is subject to several situit is subject to several south love however, nothing heatin shell/innegative. stap to obtain governmental approval for any proposed change of location.

1.4 Nonexclusive. The rights granted herein are nonexclusive. Yemaha reserves the right to appoint additional dealers of any or all of the Products at any time pursuant to Yantaha's marketing program and policies.

### R. DEALDR'S BALLIS OPPRINTING

2.1 Seites. Baler agrent to vippenally plumate and anti fire Penducts to retail consumers, and shall continually work to increase the market for the Products in the area arrived by Dealer's Location.

. . . . . . . .

Dester shall attain the annual sales objectives, if any, established by Yacaha for Besler, Chaler shall annulut a consuming goognan of quality advantising and nater promotion estimates for the Products. Dealer may sell the Products to retail consumers at such prices as Gaster may establish from time to time.

. . .

2.2 Sales Grganization. Dealer agrees to maintain a fully qualified sales organization which includes qualified sales personnel who are thoroughly familiar with five Products. Sheler, at its expense, shall exact such producting the attend antistang programs for the Producting and attend sales to impose and familiation for the Products as may be produced by Yagrahu from the to time.

2.3 Multiple Brands. Yamaha recognizes that Dealer may handle brands which are competitive with the Products sold to Dealer pursuant to this Agreement. In the event Dealer handles such competitive products, Dealer agrees to afford the Products at least as much effort as Dealer gives to computitive products. All of promotion and sale, floor spices, invention and the transformer.

2.4 Performance Criteria. Reader's level of performance may be evaluated periodically by Yazaha, based on reasonable criteria such as the following:

(a) The volume of Dealer's sales of the Products as compared with the sale of competitive products in the market area served by Dealer's Location.

(b) The volume of Dealer's sales of the Products as compared to other dealers of the Products.

(c) The actual sales volume of the Products by Dealer as compared to the reasonable aneual sales abjectives which may be attablished by Yamaha for Dealer.

(d) The manner in which Dealer has conducted its sales operations, including advertising, sales promotion and treatment of consumers.

(e) The trent over a reasonable period of time of Dealer's sales performance.

(f) The autilability of Patrimets to Caster.

(g) Significant least conditions that may have directly affacted Dealer's performance.

(h) The compliance with all of the terms and conditions of this Agreement.

Evaluations prepared partners to this Section 2.4 will be discussed with and prepared to Daster, with the expectation that Dealer will take such action as may be required to correct any deficiencies in Dealer's performance of its seconsibilities.

2.5 Customer Relations. Dealer shall at all times conduct its operations in such a manner so as to develop and maintain good customer relations. Dealer shall provide prompt and courteous service to customer inquiries and complaints relating to the Products. Dealer shall at all times proposily represent the Products and anall not malke, divertiy or Helliectly, any islaw, interseting, or eliquidiging representations to any customer or other person in recards to Yamaha or the Products.

2.6 Hours of Business. Destar agrees that its operations shall be conducted in the normal course of business during usual business hours and for not less than the usual number of days of the week and hours of the day which are customary for the same type of business in the market area served by Destar's Location.

2.7 Bigliny and Inventory. Desire agrees to maintain a prominent display of a reasonable representation of the entire line of the Produces at Dealer's Lucation, which display shall be in ascentarize with the guidelines established by Yessels. Genley also agrees to mask the connection inventory of the Products which is adopted to mask the current and architected demand in the market area served by Dealer's Location, subject to evaluability and to guidelines established by Yessels. 2.8 Report and Records. In order that Yamaha may comply with suplicable regulations and achieve its mainting objective, Device strail report to Yamaha, all retail allos of the Praducts within ten (10) date af completion of such sale. Dealer shall periodically provide to Yamaha complete and accuste data regarding Dealer's inventories of the Products and such other reasonable information as and when requested by Yamaha. Dealershall keep complete and accusts records regarding sales and service activities for the Products, applications for discounts, allevences, warranty claims, retineds and closelis and shall retain for st bust three (8) years all such retaineds and classific and shall retain for st bust three (8) years all such retaineds and classific, it teams shell permit any designated regeneration of a family and the measure in aution as the designated regeneration and downmarks.

2.9 Cooperation with Yamaha. Dealer shall at all times cooperate and work closely with Yamaha's representatives and shall maintain close communications with such representatives in regards to Dealer's operations hereunder.

2.10 Facilities. Environments of the second second

### 3. DEALER'S SERVICE OPERATIONS

3.1 Service Operations. Peaker shall establish and maintain quality service operations as recommended by Yamaha for the Products at Deakir's Location including a parts and accessories department which will comply with all standards established by Yamaha. Dealer shall provide to owners of the Products such general service and repair as may be necessary. Any and all classing in therefore shall be necessarily and ensistent with those prevailing inviter market area assured by Remies's Locations and all such services and charges shall be in accordance with applicable law. Dealer agrees to provide service to any customer who has purchased a Product, regardless of the dealer from whom the Product wasourchased.

3.2 Service Organization. Coalter sgrees to maintain a fully qualified service organization which inducts solution personali who are thoroughly families with the Proteines. Dealer, to its account to the Product service such personant to stread training programming the tag personant for the Product and Products.

3.3 Review of Desier's Service and Repair Performance. Yamaha may periodically evaluate Desier's service and repair performance in secondance with the standards recommended by Tamaha. Evaluations prepared present to this Section 3.5 will be discussed with any provides to Desier, vehicles majoritation that Desire will take main axion as may be required to comment any deficiencies in Dealer's performance of his responsibilities.

3.4 Delivery and Proparation Obligations. Desire shall be responsible for and agrees to perform set-up, proparation, and delivery obligations as prescribed by Yamaha, prior to the delivery of the Mollocts to punctusers theretof. Dealer agrees that all Products sold by it will be in prepar operating condition prior to delivery to any purchaser. Dealer further agrees to powhile purchasers of the Products with information concerning grapher epsention of the Products prior to delivery. Yamaha agrees to compensate Dealer in accordance with the policies of Yamaha as may be issued from time to time.

### 3.5 Warranty.

A. Werrenty. Products supplied to Dealer by Yamaha are werranted only in accordance with Yamaha's written warranty te coesumers, which written warranty is supplied to Dealer for distribution to Dealer's customers and which may be amended or modified from time to time only by Yamaha. OTHER THAN THE WARMANIY CONTAINED IN YAMAHA'S WMITTEN WARHANTY OR AS RELIALED BT LAW, YAMAHA DISCLAIMS ANY OTHER WARRARTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT BY WAY OF LIANTATION, THE WARRANTES OF MERCHANIABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. YAMAHA DISCLAIMS ANY LIABILITY FOR INCIDENTAL, SPECIAL OR CHISEQUENTIAL DAM-AGES OR COMMERCIAL LOSSES SUFFERED BY DEALER, ITS CLISTO-MERS OR ANY THIRD PARTY, except as provided under state law.

B. Werranty to Customers. Dealer shall show customers any applicable Yamaha warranty prior to sale of the Foducts and will furnish customers a copy of any applicable Yamaha warranty at the time of sale. Dealer shall not give, or purpers as give any additional or different warranty to bustomers on bahaif of Yamaha, or now then the specification written warranty of Yamaha far the Products.

3.6 Warranty Service. Dealer agrees to perform all warranty service on all Products brought to Dealer, whether or not sold by Dealer. Dealer shall perform such warranty service in accordance with the policies of Yamaha as they may be issued from time to time in the Yamaha service and warranty manuals and bulletins. Any charges for such warranty service shall be reasonable and consistent with those prevailing in the market area asreed by Dealer's Lecentary With those prevailing er parts that are asguire/ant, er parts that are asguire/ant, in geality and thisign as ganuine Yamaha parts, er

(a) Dealer acknowledges the importance of providing to owners of the Products prompt and skilled warranty service and the need to comply with all laws relating to warranty service. Dealer shall give immediate service to such warranty requests. Dealer agrees to perform all warranty service in a competent and workmanlike manner. Dealer agrees to maintain an inventury of genuine Yamaha parts in secondance with Section 2.7 and to provide bil netwarray warranty service.

(b) Dealer shall submit complete and neutrate elsing to Ydeatable for reinhumsement for parts and labor used in performing warranty services on warranty claim forms of Yawaha withell information required therein; and Yamaha shall mimburse Dealer for such parts and labor in accordance with the effective schedules and rates applicable to Dealer. Dealer shall keep and ratein complete and accurate records and documents supporting such claims, which records and documents are subject to the provisions of Section 2.8, regarding Mapuetion. In the event of the discovery of sup Reparate claims plus situation may share so be best to Dealer all paperate as a conduct plus plus situation made by 'learning to flushing pursuant to mash labitims ar other solar solar the mast to Yamaha for such andk and he request of such payments or smalls.

3.7 Assistance and Protection. In the event any warranty claim arises that Dealer is unable to perform, Yamaha should be promptly notified by Dealer and be provided the details of the claim and Yamaha shall use reasonable efforts to resolve such claim. Tamaha is rulying upon Dealer's assumance that it is repolie upperforming service obligations for the Preduces. Better agrees to finite present Yamaha in any claims, liability or loss that may result from a failure of Dealer to property perform service for the Preduces as assume that has and or an under applicable low.

.3.9 Technical Advice. Yamake will have service regresentatives available for Dealer to consult with, if necessary, in connection with service problems.

3.9 Recall and Update. Regardless of where Products covered by a recall or a modification program sponsored by Yamaha were purphased, Deellar will perform any inspection, recall, or multiHelius sortice as may be required from time to time. All such service shall be performed in accordance with the assignment policies and proceedings of Yamaha.

## 4. PURCHARE OF THE PRODUCTS

4.1 General Terms and Conditions. Yamaha shall sell the Pro-

ducts to Dealer and Dealer shall purchase the Products from Yamaha in accordance with the terms and conditions set forth tersin and the sales programs offered by Yemaha frame time. It time. Yamaha resenses the right to change any terms or conditions, including price and payment terms, at any time without accountability to Dealer. However, Yamaha shall endeavor to provide Dealer with advance notice of any such changes.

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4.2 Price. Desire shall pay to Yamana the price and any other charges for the Products as set forth on Yamaha's price schedules, which are in effect at the time of involving of Buuler's order unless the units program pursuant to which the Printeas wate nullened specifies a different price. Yamaha may apolicy a future data upon which is new price and/or charge may take affect and upon that date the new price and/or charge shall take effect automatically.

4.3 Peyment. Desir shall pay the purchase price for the Products at the time of defivery thereof, unless Tamana has approved other terms of credit for Dealer. If other credit terms have been approved, Dealer shall pay for the Products in anomicance will the approximit terms. Young any terms langer placed by Resize or refers the attament masses at main Benler fail to man any powers to the term, and it, or fluctuie equivalences of Yamaha or of a financing returne to which Yumaha has a resource obligetion. The cancellation or withholding of any order shall not be construed as a termination or branch of this Agreement by Yamaha.

4.4 Orders. Dealer shall order the Products from Yamaha in secondance with the ordering procedures established by Yamaha. The effective terms and conditions of any purchase order submitted by Dealer. All settines and conditions of any purchase order submitted by Dealer. All settines are subject to executance by Yamaha based on the meniphility of the Products and Dealer's monuliance with the terms and conditions hareof. To entable Yamaha tapten is generate from the menufacturer of the Products. Dealer shall submit its purchase orders at such times as may be requested by Yamaha.

4.5 Shipment. Yamaha shall use its best efforts to ship all accepted orders for the Products to Dealer F.D.B. Yamaha's watchouse with reasonable promptness, provided, however, then Yamaha shall not fae linble for usy tamoga, ususonabertial or otherwise, to the Products while no cours while in transit. Further, Yamaha shall not be liable for damages, consequential or otherwise; to Dealer while a single a remain of a failure to fill ordere, doings in dalmay, so any error in the filling of ories.

4.6 Taxes. Deeler represents and warrants that all Products purchased hereunder are purchased for resale in the ordinary course of Deeler's business. Dealer agrees that it is responsible for and shall comply with allfaws calling for the collection and/or payment of all taxes, including sales and use taxes and an wateren taxes.

## 5. GENERAL RESPONSIBILITIES ---

YAMAIN AND DEALIN

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5.1 Samply of Practicity. Yemaion shall make reasonable efforts to supply Dealer with the Products in accordance with accepted orders; however, during any period of shortage, Yamaha shall be permitted to allocate the Products in accordance with applicable marketing plans.

5.2 Promotion and Assistance by Vanualia. Yamaha shall, from time to time, provide to Déaler sales mesistance, incentives, and programs. Yamaha shall conduct on anivertihility program for the Preducts valide strain include television and redio downwarminin, megazine minorithum muts, and generational evalue. Any such insentions, programs, prosmation and assistance shall be at the sole discretion of Yamaha.

6.3 Change to the Products. Dealer actinowledges that the Products are manufactured by sugpliers of Yamaha; consequently, the Products available to Yamaha may be periodically changed as to design, moduls, or features or some or all of the Products may be discontinued all without accountibility to Dealer Incomaction with any Products ortigred by Dealer or Busilar's identities of the Products. Yamaha will use robacte-ble efforts to provide admints within or any soul element.

5.4 Trademarks. Yamaha agreet to permit Dealer to identify itraff as an authorized dealer for the Products and use the trademarks of Yamaha applicable to the Products in connection with Dealers' efforts to sell and promote the Products provided, however, that such use shall be subject to the control of Yamaha and ha in a manner consistent with the high quality image of the Products. Dealor shall not use the tradename or trademarks of Yamaha as a part of its corporate name or in any manner inconsistent with the instructions of Yamaha. Dealer shall promptly notify Yamaha of any intringement or unauthorized use by any person of such patents, trademarks, tradenames, copyrights or designs. Dealer acknowledges that Wattaname, copyrights and interest in such patents, trasemarks, trademarks, tradenames, copyrights or designs. Dealer acknowledges that Wattaname, copyrights and interest in such patents, trasemarks, the of the tradenames and excitent, tradenames and expression immediately all use of the underland dealers, tradenames, and expression.

5.5 Financial Responsibility. Dealer shall maintain for its operations hereunder adequate working capital and lines of wholesale credit to enable Dealer to fulfill its responsibilities under this Agraement. Dealer further agrees to comply with financial responsibility guidelines issued by Yandha from the to time. Dealer agrees to furnish Yamaha, at ressonable imes, fiturellal reports and effect interced date in a format acceptable to Yamaha to enable Yamaha to dealer's Standad responable to Yamaha to enable Yamaha to dealer's Standad responable to Yamaha to enable Yamaha to dealer's Standad responability, it least within nimety (SB) mays following the close of Dealer's subtained statument for the presides year.

5.6 Compliance with Lawa. Dealer shall conduct and maintain at all times its sales and service operations in strict compliance with all applicable federal and state laws and regulations, county and city ordinances and regulations and any other applicable law, regulation or ordinance.

### 6. TEIMINARTON

6.1 Editoritymenta. This Agreement shall be elimities once the execution haved by Danier and An authoritand officer or egreenation of Yamaha and upon the execution of one or more Addendum(s) attached hereto and made a part hereof. This Agreement shall terminate upon termination of all Product Addendum(s) attached hereto.

8.2 Termination for Caute (immediate Effect). Unless otherwise provilled for or allowed under state law, Villman may unfinite this Agreement, will immediate effect on the giving of Witten mous to Dalilor should any bit the failthing events trans, such svents being of useful a serious nature so as to constitute good cause for immediate termination by Yamaha:

(a) Any misrepresentation by Dealer in antering into this Agreement or the submission by Dealer of any false or traudulent application, claim or report in connection with its sales or service operations.

(b) Incolvency of Dation, United to Patter to need to dette as they mature, the filing by Dealer of a petition of voluntary bankruptcy under any chapter of the basistraped links of the United Dates, the testtutter of presenting the accurate to an instantary presenting the association of an analymment by Dates for the baseful of creditors; the appointment by a court of a receiver, trustee for Dealer or the assets of Dates, dissatution of Dates; or the falses of Dealer or the assets of Dates, dissatutions of Dates; or the falses of Dealer is conduct its operations in the ordinary course of butiness including closing of Dealer's operations in any manner inconsistent with what is customary for the same type of business in the same marks area.

# (c) Any relevant or extention we be a set of the second functions when the testing compliant with the receiptments set forth in Sector 1.3 of this Agroupperfi.

(d) Any act by Baster or any parsan insched in the executive or operating management of Dealer which violates any law and affects adversely Dealer's operations of any conduct or unlair business practice by Dealer or any person involved in the ownership or operating management of Dealer which affects adversarily Dealer's operation or the goodwill and reputation of Dealer, Yamaha, or the Products.

(e) Any failure by Dealer to pay to Yamaha any sums that may be due or become time pathoant to fills Agrimment or makitain alloqually fines of could fee programs of pervisioning the Produces or the parts and accustoriat faces Yamaha.

(i) Any failure by Dealer to pay any debts, advances, obligations or liabilities of Dealer heretofore or hereinafter made, incurred or created, whether voluntary or involuntary and however arising [including, without limitation, indebtedness owing by Dealer to others for which Yamaha has a recourse obligation and other obligations incurred by Yamaha to third parties on behalf of the Dealer; and further including, without limitation, any and all altomosts feer, centa, pramiume, charges and/or interest owed by Dealer to Yamaba, whether under this Agreement, or otherwise) whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, whether Dealer may be liable individually or jointly with others, whether recovery upon such fidebtedness may be or hureinstre becomes barred by any statute of instantions or whether such indibbtedness may be or hureafter Becomes mitanvise unendequalities, and includes Bearer's period, this and full-this performance, statutementation, weathing of main and buery time, centetion, agreement, these matching, and barries of main and buery time, centeher, agreement, these matching, enclastating and machines to be performed by Dealar union the Agreements

(g) Revucation or non-renewal of Dealer's motor vehicle dealer ilcense of any other license of permit necessary is conduct its operations herounder.

- (h) Any full while Brother to comply with Sanction 7.
- (i) Any default under the Security Agreement.
- (i) Any default under or cancellation of this Personal Guarantee.

6.3 Termination - By Yamaha. Unless otherwise provided for or allowed under state law or this Agreement, Yarcaka may terminate this Agreement on the giving of at least skdy (60) days prior written notice to Dealer for failure of Dealer to fulfill any or all of its responsibilities and obligations as set forth in this Agreement, succept for causes specified made Section 6.2 horself.

6.4 Tematentiete - By Delder. Usings otherwise provided the set allowed under state law or this Agreement, Dealer any teachate this Agreement on the giving of at least shity (60) days prior written notice to Yamaha. Dealer shall be considered to have voluntarily terminated this Agreement sky (60) days following (i) closing of Dealer's gperations, (ii) absitionment of Dealer's business or (ii) revocation or non-renewal of Dualer's motor vehicle dealer libense or any other license or permit necment to conduct its toperations.

6.5 Transition - Nam Agroundent. Warman may function or modify this ingumentant a say tarm on the giving to Dualer of at loast excitation (60) days arbits without motion should thematin define a new or unaddiant form of agreements at arms or all of its denias for the Products, or should Yamaha's right to distribute the Products be terminated or modified.

### 7. ASSIGNMENT, TRANSFER, CHANGE OF OWNERSHIP

7.1 Assignment. The relationship created between Yamaha and Dealer is intended to be personal in relative, since Yamaha is relying on the contract ownership and active participation of certain individually in the operations of Dealer, and exceedently, any applyment or therefore by Dealer or change in ownership or management, shall require the prior written consent of Yamaha. This is nucessary in order for Yamaha to determine that each summers will meet the contracting mechanisms or quiroments set forth in this Agreement. Yamaha may terminate this Agreement on the giving to Dealer at least fitteen (15) days prior written notice, if Yamaha's prior written consect to any such transfer is not obtained. Fer the purposes of this Agreement, any change in ownership, the legal icom of business or watter memorement of Temata. Yamaha may terminate thick may invest the prior written consect to any such transfer is not obtained. Fer the purposes of this Agreement, any change in ownership, the legal icom of business or watter memorement of Temata. Yamaha weiger or parafeer the supersenser, is minde or part, without resting the legals investing which is market or Temata. Yamaha weiger or parafeer which in that manin to accenterize which maning Sector with a with a super-

7.2 Conners and bilansgement. Dealer represents that the carrent conners and key personnel of Dealer.are those identified on the cover sheet and that these individuals shall continue to actively participate in the ownership and operating management of Dealer. Yamaha recerves the right to terministe tits Agreement on the gring to Dealer of at least fifteen (15) days plor written retice is the event any et the http personnel oneses to be involved in an active substantial rate is the operation wi Dealer tails to obtain Yamaha's prior smithin consent to the residence and Dealer tails to obtain Yamaha's prior smithin consent to the residence and Dealer tails to obtain Yamaha's prior smithin consent to the residence and Dealer tails to obtain Yamaha's prior smithin consent to the residence and Dealer tails to obtain Yamaha's prior smithin consent to the residence and Dealer tails to obtain Yamaha's prior smithin consent to the resonance to six (6) maniful fates and the smet is and to allow an orderly floatent of a low Dealer's operations; provided, however, that it can be tailing during such period and thereafter.

### 8. **RESPONSIBILITIES UPON TERMINATION**

8.1 Continuing Responsibilities. Upon termination of the Agreement, Dealer shall no longer be an authorized dealer for the Products; however, Dealer shall pay any debts, advances, obligations or liabilities of Dealer heretofore or hereinafter made, incurred or created, whether voluntary or involuntary and however arising [including, without limitation, indebtedness owing by Dester to devers for which Yameina has a recourse oblighting and other oblightung inversed by Yamaha to third parties on behalf of two Cruster; and furner instrating, without instantion, any and all ationsystems, music, paraluna charges and/or interest and by Dener to Yantana, windter major dis Agmanunt, or othersipaj whatter due or not due, absolute or maningent, ilcuidated or uniquidated, datemined or undetermined, whether Dester may be Lable individually or jointly with others, whether recovery upon such indebtadness may be or hereinalter becomes barred by any statute of limitations or whether such indebiedness may be or hereafter becomes otherwise unenforceable, and includes Detuer's prompt, full and hilling performance, deservance and discharge of each and every term, condition, cyrisement, representation, warranty, untionalding and prevation to be patterment by Disater under this Agenciantic

(a) Yarasha has the right to paralus any debie, advances, obligations or listilities of Desiar begetefore or bereinalter made, incurred or created, whether voluntary or involuntary and however arising (including, without limitation, indebtedness owing by Dealer to others for which Yamaha has a recourse obligation and other obligations incurred by Yamaha to third parties on behalf of the Dealer; and further including, without limitation, any and all altorneys less, costs, premiums, charges and/or interest owell by Doular to Yantahe, whether under this Agreement, or otherwise! whenes dae or ret d.t., assents or crimingon intestions or automicans, determined or automicans, determined or automicans, and the context of jointly with others, whether reasonry uson such invisibledness may be or heminaltyr buzznas being by any statute of linkations or whether such indeblogages may be or hereafter becomes otherwise unenformable, and includes Dealar's prompt, full and faithful performance, observance and discharge of each and every term, condition, agreement, representation, wairanty, undertaking and provision to be performed by Dealer under this Account.

8.2 Interestinguance of the of Yradesterks. Uptr insulation of this symmetry, implements, including such the instantion and deriver install (1) discontinue textwith any deriver and the indexnetic of Yemelea, including such the is addestering, is related on the indexnetic of Yemelea, including such the is addestering, is related on the indexnetic of Yemelea, including such the is addestering. (2) forthwith remove or obligate any and all signs designating Dealer, (2) forthwith remove or obligate any and all signs designating Dealer as an authorized dealer for the Products or which include any trademark of Yamaha, (3) forthwith notify and instruct publications and others who may list or publish Dualer's name as an authorized Yamaha dealer, including telephone Gravitumes, yellow pages, and other business directorities, to discontinue such 1999 of Dualer as an authorized Yamaha dealer, and (4) come the use of all preventional instance and instruct leaders, in Station, years and displays prevention in the authorized fails to Georgi with any of the granishme of this Station, with same.

8.3 Orders for the Products. Upon termination of this Agreement, all unshipped orders for the Products shall be deemed cancelled. However, from the Gate of the notice of termination to the effective date of termination, orders may be fifter by Yanneha if such outers are born Way and insumable in quantity. Denier pays for such uses: in cush en delinery, and Dealer is capable of meeting its sales and service obligations hereunder.

### 8.4 Repuschase of Products.

n. Upon immunities of this Agarament, timmink shall repairing the fiber and Desire shall and in Yamaha, within and (82) days after the effective date of transistion, any or at new, usuand, unteramental, esclarable, Products excluding parts and acassories, which (2) were involved by Yamaha to Dealer within eighteen (18) months prior to the effective date of transaction, and (2) were purchased by Dealer and are the unencumbered property of and in the possession of Dealer. The repurchase price shall be the net involve price or usiver? wholesale dealer price whichever is less, exclusive of transportation charges and delivery and garge-ratice reimbumments, provinuely paid by Dealer therefor less all costs incurred in regards to their repurchase and apparaties.

B. Upon termination of this Agreement, Yamaha shall have the option, but not the saligatian, to reparchase any er all new, utuand, undernaged, reselvable, Products excluding parts and accessories, which is were invoiced by Yamaha to Dealer more than eighteen (18) months prior to the effective date of termination, and (ii) were purchased by Dealer and are the unencumbered property of and in the possession of Dealer. He repurchase price shall be the net invoice price or current wholesale dealer price whichever is lots, exclusive of termination data and in the possession of Dealer dealer price whichever is lots, exclusive of termination data and in the possession of Dealer dealer price whichever is lots, exclusive of termination data and in the possession of Dealer dealer price whichever is lots, exclusive of termination data and the possession of the dealer dealer price whichever is lots.

C. Upon termination of this Agreement, Yamaha shall have the option, but not the obligation, to repurchase any or all new, unused, undamaged, resaleable parts and accessories, which (i) were invoiced by Yamaha to Dealer within eighteen (18) months prior to the effective date of termination, and (ii) were purchased by Dealer and are the unsuccomband property of and in the possession of Dealer and are the unsuccomband property of and in the possession of Dealer. The reportives price whall be the net invoice price rothress whallow dealer price wisithever is less, exclusive of termination price of contents whallow dealer price wisithever reimbursements, powership gold by Dealer therefor less all costs incurred in regards to their repurchase and any agalicable relation.

D. Within thirty (30) days of the date of tarmination of this Agreement, Dealer shall deliver or mail to Yamaha a detailed inventory of all of the items referred to in Section 8.4. In the event Dealer fails to supply such a first to Yamaha within said period, Yamaha shall have the right to enter owno Dealer's premises for the purpose of compiling such an investory list and Dealer shall reinterned Yamaha for any cetts internet in connection therewith.

E. As a condition of repurchase, gegenent for repurchase of Products, perts or accessoring will first be applied against any obligations or money owed by Dealer to Yamsha, and will then be applied to any monies owed to a financing source to which Yamsha has a recourse obligation.

F. This Section 5.4 is not applicable in the event of any transfer of Rester in accordances with Section 7.

8.5 Warnanty Claims. Upon termination of this Agrowment, Easter simil no longer be authorized to provide warranty service and shall refer warranty service reguests to the meanent sutherized Yamsha dealer for the Products or to Yamsha. Dealer ackewinges that any acceptance and payment of warranty or other claims by Yamsha after the effective date of termination shall not be construed to be a reinstatement of Dealer.

8.6 Records on Termination. Upon the termination of Degler and upon the request of Permeter. Beater will different to Termine copies of Denier's requests of suc-up, preparation, definery of Frederick, manufacty convice, remit or models survice or atime service of the Previous.

#### 9. MISCELLANEOUS

9.1 Relationship of the Parties. This Agreement down not in any way create the relationship of principal and agent between Bealer and Yamaha and in no circumstance shall Dealer, its agents or employees be considered the agent of Yamaha. Dealer shall not act or attempt to act or represent itself diractly or by implication as an agent of Yamaha or in any meanner assume or create or attempt to assume or create any obligation or to make any contrast, agreement, representation or warranty on behalf of or in the name of Yamain, ensuet trasm a minorinal in writing by Yamain, Dealer shall indexally and held Yamaha humban from any inshilty coused by the acts of Dealer, its employment or agents and form liability coused by any unsuberland act by Dealer, its agents, or employees.

9.2 Force Wajeure. Yamina and Dealer shall not be responsible for or liable for failure to perform any part of this Agreement or for any detay in the performance of any part of this Agreement, clrectly or millrectly resulting item or contributed to by any foreign or Somettic embargoes, selzura, and all Gad, incommission ware and/ar somettic embargoes, selzura, and all Gad, incommission ware and/ar somettic embargoes, selzura, and all Gad, incommission ware and/ar somettic embargoes, selzura, and all Gad, incommission ware and/ar somettic matrix of the adjustion or extrement of any law, ordinance, orgulation, ruling or order directly interfering with the production, delivery or payment hereunder; or tack of the usual means of transportation, firms, floods, explosion, strikes; extraordioary currency devaluations.

taxes, or custom duties or other similar charges or assessments, or other events or contingencies hayonal its centrol, either of the <u>foregoing</u> enture or of any kind, nature or description affecting the transportation, production, sele or distribution of the Products or any components used in or in connection with their production.

9.3 Enthe Agrounder. This Agreement and its Addendum(s) supersade and terminate any and all agreements or contracts written or oral, entered into between Yamana and Beater us of the effective-flate of this Agreement with reference in all matters comment by this Agreement with reference in all matters are not memorands within pased between Yamaha and Beater with reference and memorands within pased between Yamaha and Beater is all matters are not seen to be attered, modified, amended or changed, in whole or in part, accept in writing and executed by Yamaha and Dealer in the same manner as is provided for the execution of this Agreement.

9.6 Vanue. Eisster agrees that any leght proceeding between Design and Yamama which minum out of this Agreement, the dealings or relationship between the parties, including discontinuance of such relationship, may he brought by Resker or Yamaha in state mourt or faderal court located in the County of Orange, State of California. Dealer irrevocably consents to the jurisdiction of said court. Dealer waives any objection it may now or hereafter have to the jurisdiction of such court.

9.5 Excenting Law. "Its Agreement shill be governed by and communed in accentional with the law of the State of California, instalding but mail limited to the California Statute of Limitations.

9.6 Construction. This Agreement and all of the words, terms, and provisions hereof shall be construed in ascerdance with their usual and ordinary meanings, and not in favor of or against either party hereto. Paragraph headings are not a part of this Agreement, but are only for convenience. 9.7 Nonwaiver of Rights. Failure of either party hereto to enforce any of the provisions of this Agreement or any rights with respect hereto ar failure to exercise any election provisions, rights or elections or in any way affect the validity of this Agreement. The failure of either party to exercise any of said provisions, rights or elections shall not preclude or prejudice such party from later enforcing or exercising the same or any other provisions, rights or elections shall not preclude or prejudice such party from later enforcing or exercising the same or any other provisions, rights or elections which it may have under this Agreement. Any actions taken by Yemthia, subsequent to termination of this Agreement, shell not be constrained in be a minimistement of Denier. Dealer may be reinexant only by the same on the accution of a mem Dealer Agreement by both Dealer and Yamake.

9.8 Invalidity. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

9.9 Notice. All notices required or permitted to be given as made under this Agreement may be effected in writing by certified mail, pustage propeid, return receipt requested, and shall be deemed communicated three (3) days from the mailing thereof. Mailed policemshall be addreased to the parties as their addreases appear above, but each party may change his addreas by written notice in accordance with this paragraph.

9.10 Terms of Agreement. The terms of this Agreement govern unless inconsistent with the terms set forth in an Addendum(s) attached hereto and made a gast hereof, it which save the terms of the Addendum(s) will control.

.9.11 Relation of Glahum. Dealer values and relations only and all claims of any kind and nature whatsomer which Dealer has against Yawaha, which srippe out of or in connection with any prior agreement including but not limited to any Addendum entered into between them.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this ...... day of

20 \_\_\_\_\_. Dealer expressly acknowledges that it has read this Agreement in its entirety and understands its rights and responsibilities under this Agreement and the provisions resulting to termination.

### "YAMAHA"

YALAMA MOTOR CORPORATION, U.S.A. A California Corporation

By			
Title			
"DEALER"			
	:		

Title \_\_\_\_\_

8y\_\_\_\_\_

Title

## YAMAHA MOTOR CORPORATION, U.S.A. OUTBOARD MOTORS SERVICE CENTER AGREEMENT

THIS AGREEMENT is made by and between YAMAHA MOTOR CORPORATION, U.S.A., a California Corporation, having its principal office located at 6555 Katella Avenue, Cypress, California 90630 (hereinafter to as "Yamaha") and Service Center as identified below.

A. Service Contor's Compliane Legel Name

(Burnan, Risdowashin, Corputation mintred to in the Agreement as "Service Center")

Salt Proprietarship	Parmentip	Corporation
titious Business Name (if different from ab	ove)	

3. Service Center's Location Addiment:

Name:

Fic

(Referred to in the Agreement as "Service Center's Location")

## RECITALS

A. Yemaha is the exclusive distributor in the United States of quality outboard motors which are sold under the trademark "Yamaha" (hereinafter referred to as the "Products") and distributes parts and eccessories therefor.

8. Samits Cutter desires to engage in samics of the Pastacon in accordance with the same and sanditious hareof; and Yanaha designs to exactint Semica Center as a service location for the Products in accordance herewith.

Yamaha and Service Center agree to govern their relationship in accordance with the following:

### 1. ESTABLISHIMUM SP RELATIONSHIP

1.1 Appointment of Service Center. Yamaha hereby appoints Service Center as an anthument Yamaha auticode motive service center for the ammine of the Fundamis and filminge Center hereby accepts such appointment. Yamaha and Service Center agree that Service Center shall only sell parts and sentencoire to panil compares in connection with its service operations and shall not sell ar otherwise transfer the parts and accessories to any other person except those authorized by Yamaha to sell or service the Products. It is understood under this Agreement that Service Center is appointed only as an authorized service focation of the Products and that Service Center shall not represent instiff as an authorized service to service under the service focation authorized service focation authorized under the service service center shall not represent instiff as an authorized service focation authorized to service under the service service under the service service under the service service service to any other person service to the product under the service service to service the service of any other person to service under the service service under the service to service service to any other person to a service to service the service to service to

1.2. Lemation of Sandon Contor, in order to enable Yeranka to resistain an adjective network of authorized Yeranka service centers, Service Center agrees not to service the Products from any location other than from Service Center Location. Service Center agrees not to change Service Center Location's without obtaining Yeranka's prior written approval of such proposed change.

1.3 Nonuclinates. The right-ground homin we haven blocket, WARMEL remains the right to appoint withful sortice context for nomice of any or of all of the Products at any lines.

### 2. SERVICE CENTER'S OPERATIONS

2.1 Service Operations. Service Center shall establish and maintain quality service operations as recommended by Yamaha for the Products at Service Center's Location. Service Center shall provide to owners of the Products such general service and repair as may be necessary. Any

Y11419 (1/2001)

and all charges therefore shall be reasonable and consistent with those prevailing in the market area served by Service Center's Location and all such services and charges shall be in accordance with applicable law. Service Center agrees to provide timely service to any customer who has purchased a Product, segmetiess of the double from whom the Filedust was constitutant.

2.2 Service Organization. Service Center agrees to maintain a fully qualified service organization which includes service personnel who are thoroughly familiar with the Products. Service Center, at its expense, shall cause such personnel to ettend training programs for the service of the Products and study service manuals and bulletins for the Products as may be provided by Yamaha from time to time. Service Center agrees to purchase and provide to its service personnel of milita and exploration, as prescribed by Yamaha, that may be nearessay to subspatially and perparts ervice the Products.

2.3 Review of Samian Canter's Samice and Repair Podermantal. Yamaha may periodically analusts Sarvice Center's sections and equily performance in accordance with the standards recommanded by Yamaha. Evaluations prepared pursuant to this Section 2.3 will be discussed with and provided to Service Center with the expectation that Service Center will take such action as may be required to correct any deficiencies in Service Center's performance of the support

2.4 Wannesser, The Frankeska and assuranted only in constraints which Versals's wellton generatory to considence, which weights which assuranted or modified from time to hims only by Yamaha. OTHER THAN THE WAR-RANTY CONTAINED IN YAMAHA'S WRITTEN WARRANTY OR AS REQUIRED BY LAW, YAMAHA DISCLAIMS ARY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT BY WAY OF LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ARY PARTICULAR PURPISE, WANNAU AND LAWS MICH INCLUDING CONSTANCE ON CONSTANCE WITH LAW INCLUSION LEGISTIS SHIFTEND BY MERCHANAL SHIFT LAW THER FARTY, except as paryided under state Inne

2.6 Warranty Service. Service Center agrees to perform all varrantly service on all Products brought to Service Center. Service Center shall perform such warranty service in accordance with the policies of Yamaha as they may be issued from time to time in the Yamaha service and warranty manuals and bulletins. Any therges for such warranty service shall



be reasonable and consistent with those prevailing in the market area sound by Sumide Conten's Lasertion. When gashenday advectory service on the Problems, Samide Conten shall use only genuine Yamsha parts or parts that are equivalent is gustify and design to gravine Yamsha parts.

(a) Service Center acknowledges the importance of providing to owners of the Products prompt and skilled warranty service and the need to comply with all laws relating to warranty service. Service Center shall give immediate service to such warranty requests. Service Center agrees to perform all warranty pervice if a competent and workmanille manner.

(b) Service Center simil moment complete and easi measure claims to Yamaha for reimbursement for parts and labor used in performing warranty service on measurement for parts and labor used in performing warrequired therein; and Yamaha shall reimburse Service Center for such parts and labor in accordance with the effective schedules and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. Service Center shall keep and rates applicable to Service Center. The service the provisions of the Agreement regarding inspection. In the event of the discovery are any improper citim or payment, Yamaha may change back to Service Center all payments or amisis pine insumat instruct main by Yamaha and and service Center pursuant to such abiens are othernalis, is well us the event to Service for such malls and the restary of seach payments or cambia.

2.6 Assistance and Protection. In the event any warranty claim arises that Service Center is unable to perform. Yamaha should be promptly notified by Service Center and be provided the details of the claim and Yamaha shall use reasonable efforts to resolve such claim. Yamaha is relying upon Edvice Center's assumence that it is capable of performing settice utiligences for the Plantace. Sentise Center agrees to fully pertent Yamaha from any allowing liability on four transmitted from a failure of Senate Canter to progedy perform a failure.

2.7 Recall and Updata. Regardless of where Products covered by a recall or a modification program sponsored by Yamaha were purchased, Service Center will perform any inspection, recall, or modification service as may be required from time to time. All such service shall be performed in accordance with the announced policies and procedures of Yamaha.

### 3. PURCHAUN: OF PARTS AND ADDRESS

3.1 Princ. Service Center shell pay to Yermite the prior and any atter charges for the parts and accessories as set forth on Yamaha's price schedules, which are in effect at the time of invoicing of Dealer's order unless the sales program pursuant to which the parts and accessories were ordered specifies a different price.

3.2 Payment. Estudius Center shell pay the purchase price for the parts and accessible on this time of defining thereof, taken Yaimuha has apprended other terms of toodif for Sumine Center, if other motifs terms have been upprended, finite conter shell pay for the parts and antosocies in another with the apprendit terms. Yamaha may cancel any order placed by Service Center or refuse the shipment thereof should Service Center fail to make any payment terms, cradit, or financial requisements of Yamaha. The cancellation or withholding of any order shall not be construed as a termination or breach of this Agreement by Yamaha.

2.3 ENGRUGHE Terrets shall be its bout efforts to ship all accepted orders for the party and anotesents in Service Canter RO.B. Numbers washing with representative provides provide the service shall not be light for any dominant while in transit, further, then the shall not be light for any dominant while in transit. Further, Nemate shall not be light of a new service consequential or otherwise, to Service Canter which arise as a result of a failure to fill orders, deays in delivery, or any error in the filling of orders.

3.4. Taxes. Service Center represents and warrants that all parts and accesselles perishous? Recenter are particular for result in 9% onlinery course of Service Center's business. Service Center agrees that it is responsible for and shall comply with all laws calling for the collection araker payment of nil teriar, insteading sale, and use same and allower investo.

### 4. GENERAL RESPONSIBILITIES - YAMAHA AND DEALER

4.1 Supply of Parts and Amassaries. Yamaha shall make reasonable efforts to supply Service Center with the parts and accessories in accordance with accepted orders; however, during any period of shortage, Tamaha shall be permitted to allocate the parts and accessories.

4.2 Trademates, standing agrees to points Source Center to identify immit as an authorized service center for the Products and use the trademarks of Yarmaha anglianable to the Fraducts in memoryland with Sarvine Center's afforts to service the Products generated, however, that such use shall be subject to the excited of Yarmaha and be in a manner consistent with the high quality image of the Products. Service Center shall not use the trademarks of Yarmaha and be in a manner consistent with the high quality image of the Products. Service Center shall not use the trademarks or trademarks of Yarmaha as a part of its corporate name or in any manner inconsistent with the instructions of Yarmaha. Service Center acknowledges that Tarmaha has the sole right and interest its such trademarks and trademarks. Service Center agrees to case immediately all use of Yarmaha trademarks, widemarks and exaministion of this Agreement.

4.3 Customer Relations. Service Center shall at all times conduct its operations in such a manner so as to develop and maintain good customer relations. Service Center shall provide prompt and courteous service to customer inquiries and complaints relating to the Products. Service Center shall at all times properly represent the Products, ports and accessories and shall not make, directly or inthractly, any take, missionling, or dispansion are constituent to any customer or stiller permon in regains to Moneim or the Products, parts and accessories.

4.4 House of Business. Service Canter agrees that its anestices shell be conducted in the normal course of business during usual business hours and for not less than the usual number of days of the week and hours of the day which are customary for the same type of business in the market area served by Service Center Location.

4.5 Report and Rounds. Service Canter shall periodically provide to Variable complete and excurate data regarding Service Conter service distributions and excurate data regarding Service Conter service distributions and an excurate intermedian and when requested by Yemaha. Service activities for the Products. Service Center shall permit any designated representative of Yamaha at mesonable times, to examine and such records and documents.

4.6 Facilities. Service Center shall establish and maintain the appearances and condition of the facilities at Service Center Louation so as to favorably reflect on the Products and the quality image of Yanalas. As part in the facilities at Sendee Center I weeks, Service Center and install and install and maintain promission and suitable signs as measuremented by Yanaha, which identify Service Center as a service center of the Products. Service Center agrees to maintain the facilities in a mant and calledy families and and all families and an accordance with the standards established by Yanaha which may be changed from time to time.

4.7 Cooperation with Yamaha. Service Center shall at all times cooperate and work closely with Tamaha's representatives and shall maintum close communications with such representatives in regards to Sertice Center's epowering howevides. ł

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### 5. TERMINATION

5.1 Effectiveness. This Agreement shall be effective upon the execution hereof by Service Center and an authorized afficer or representative of Yamaha at Cypress, California and shall remain effective for a period of one year from the date hereof, unless terminated earlier as provided herein. This Agreement shall be automatically remeved for each successfling ans (1) year term, provided, Rowever, that Yamaha react-we the right upon at least sixty (60) days notice not to renew this Agreement at Yamateliefs before discretion. 5.2 Termination for Cause (Immediate Effect). Unless otherwise provided for or allowed and/or state law, Verseits any terminate this Agreement with intersection off-ont as the giving of version natics to Saturce Center should any of the following areasts accur, such angets being of such a seriese native so as to constitute good cause for immediate termination by Yamaha:

(a) Any misrepresentation by Service Center in entering into this Agreement or the submission by Service Center of any false or fraudulent application, clear of report in summedian with its warranty or service operations.

(iii) Inaniwancy of Service Center, inability of Service Center to meet its debts as they mature, the filing by Service Center of a petition of voluntary bankruptcy under any abapter of the bankruptcy laws of the United States, the institution of proceedings to adjudge Service Center a bankrupt in an involuntary proceeding; the execution of an assignment by Service Center for the benefit of creditors; the appointment by a court of a receiver, trustee for Service Center or the assets of Service Center; dissolution of Service Center or the tellere of Service Center to conduct its televalues in the tenter of the fellere of Service Center to conduct its televalues in the tenter of the fellere of Service Center of your vice General tentet in the tenter incommission with the tencemment for the scate type of beginning in the neiner works, and.

(c) Any relocation or establishment of branch locations without having complied with the requirements set forth in Section 1.2 of this Agreement.

(d) Any false representation by Service Center that Service Center Is an authorized ductor of the Preduces or an authorized Sealtr or service center as other Product distributed by Yamaha.

(a) Any ant by Element Centers or any paraest instance in the consership or operating management of Service Center which violates any law and affects advantally Service Center or any person involved in the ownership or operating management of Service Center which affects advantally Service Center operation or the goodwill and reputation of Service Center, Yamaha, or the Proflucts.

(9) Any failure by Service Cuntur to pay to Ydradin any sume that may be describe due parametrit to this Aguservint.

(a) Any failure by Service Center to comply with Section 6.

5.3 Termination — By Yamaha. Unless otherwise provided for or allowed under state law or this Agreement, Yamaha may terministe this Agreement on the giving of at least sixty (50) days prior written notice to Service Center for the following reasons.

(a) The failure of Service Center to fulfill any or all of its responsibilities and whilestimes as set forth in this Agricument, Gauge for manus specified major Section 5.2. terms!

(b) The failure of Service Center to continue to sell goods or products into which the Products have been incorporated by the manufacturer of the other goods or products.

5.4 Termination — By Service Carner. Unless otherwise provided for or stewed armer state law or this Agreement, Service Center may terminate this Agreement on the giving of at least sixty (80) days prior written notice to **Valuable**.

### 6. ASSIGNMENT, TRANSFER. CHANGE OF OWNERSHIP

6.1 Assignment. The relationship created between Yamaha and Service Center is intended to be personal in nature since Yamaha is relying on the continued ownership and active participation of certain individuals in the operations of Service Center, and consequently. Any assignment or transfer By Stavice Center or change in dwnership or managemant, shuftrauting the previous Center or change in dwnership or managemant, shuftrauting the previous consent of Yamaha. For the purpose of this Acrement, any change in ownership, the legal form of business or active

management shall be deemed a transfer which requires the prior writtari consent of Manaka. It is to an encode an encode and a second and with this Section is wid. For the gaugement of this Agreement, any change in ownership, the legal form of business or entire management shall be deemed a transfer which requires the prior written corsent of Yamab Any transfer which is not made in accordance with this Section is vold.

## 7. RESPONSIBILITIES UPON TERMINATION

7.1 Continuing Responsibilities. Upon termination of this Agreement, Strylee Conter shall he langer be an asthorized service canter for the Maximum's however, Service Caster shall immediately (say to Maxater all agreem's contribution, ad ather or cast shall

7.2 Dissoctionance of Use of Taskensela. Upon termination of this Agreement, Service Center shell (1) discontinue forthwith any and all use of the trademarks of Yamaha, including such use in advertising, business material of Service Center and as part of the firm or trade name of Service Center, (2) forthwith remove or obliterate any and all signs assignating Service Center as an authorized service center for the Produces ar which include say trademark of Yamaha, (3) forthwith red/ly and bistrudt publications and denore with ready lift or publish Ellowing Center's resonant on matianimal 'simulan service center, building takebane disactories, veisure pages, and other humans climately, to disactinue such listing of Service Center as an authorized Yamaha service center, and (4) celes the use of all posmotional literatus and material provided to Service Center by Yamaha. In the event Service Center fails to comply with any of the provisions of this Section, Yamaha is authorized to take all steps necessary to insure compliance with same.

7.3 Orders for the PLPE and Assessments. Upon termination of this Agreement, all methyped unions for sorts and successories shall be deemed cambelled. Moreover, foun the state of the point of termination, orders may be filled by Yamaha if such orders are bana tide and researable in guardity. Sortice Center pays for such order in capit an delivery, and Service Center is capable of meeting its service obligations hereunder.

### 7.4 Repurchase of Parts and Accessories.

A. Upon termination of fills Agreement, Termina shall neve the option to repurchase env or all neve, unused, undernaged, resultable parts and accesses which the service center, and (f) were purchased by Service Center and are the unencumbered pagenty of and in the pageneric of Service Center.

B. As a condition of monochase, payment for reguestness of the parts and accessories will first be applied against any obligations or money owed by Service Center to Yamaha.

7.5 Werrantly Bahna. Upon Termination of this Agreement, Service Center shall no longer be authorized to provide warranty service and shall refer warranty service requests to the manager authority of the er service center for the Finduces on to "isonghe. Substite Center achievelogies that are an anomalies and payment of warranty or other claims by Yamaha stipr the effective date of termination shall not be construed to be a refinitement of Service Center.

### 8. MISCELLANEOUS

5.1 Relationship of the Parties. This Agreement does not in any way crusts the relationship of principal and agent Detween Service Center and Yamaha and in no ell sumstance shell Service Center attained the agent of Vernaka, iss ageness or employees the several and the agent of Vernaka, iss ageness an agent of Yamaha or in any manner assume or create or attempt to assume or create any obligation or an employee any contract, agreement, representation or warranty on hehalf of or in the name of Yamaha, accept those suthorized in writing by Yamaha. Service Center shall indemnify and hold Yamaha hammless from any cost and liability caused by the acts or Service Center, its employees or agents and fishility caused by any unsufficized act by Service Center, its egent;, or amployeet.

8.2 Force Majoure. Yamaha and Service Center shell not be responsible for or Noble far Initumae perform any part of this Agmentation or far any diplay is the performance of any part of this Agmentatic, denoty or indirectly resulting form or contributed to by any fateling or domestic embrggoes, seizures, acts of God, insurrections, wars and/or continuance of war; or the adoption or enactment of any law, ordinance, regulation, ruling or order directly or indirectly interfering with the production, delivery or payment hereunder; or lack of the usual means of transportation, fires, floads, explosion, strikes, estimated are a successed, or diverse or custom under any law, ordinance, regulation, or custom utilities or other dimeter clangue or assessments, or diverse or custom utilities or other dimeter clangue or assessments, or diverse or custom utilities or other dimeter clangue or assessments, or diverse or custom utilities of the testing, induce of the family nature or of any blad, measure desception of facting the transports used to rist connections with their perdection.

8.3 Entire Agreement. This Agreement supersedes and terminates any and all agreements or contracts written or oral, entered into between Yamaha and Service Center as of the effective date of this Agreement with reference to all matters covered by this Agreement. All conversations, sugcitations, consequentlines and memorants within pressed between histolie and Sim/de Center with references to all nations common by this Agreement are manged herein. This Agreement enablishes the entire agreement are manged herein. This Agreement enablishes the entire agreement between Yamaha and Service Center. This Agreement may not be eltered, modified, amended, or changed, in whole or in part, except in writing and executed by Yamaha and Service Center in the same marmer as is provided for the execution of this Agreement.

8.4 Winus. Service Center agrees first any legal proceeding between Service Center and Yanaha which trices out of SiB Agreement, the distings or relationship between the partition including drawstanamore of such relationship, may be brought by Service Center or Yamaha in state court or federal neurt incathed in the County of Ortenge, State of Celfornia. Service Center interaceity comments to the jurisdiction of said sourt. Service Center waknes any objection it may now or hermitter have to the jurisdiction of such court. 8.5 Governing Law. This Agreement shall be governed by and constrund in accordance with the law of the State of Californie, including but ont limited to the California Statute of Limitstore.

8.6 Construction. This Agreement and all of the words, terms, and provisions hereof shall be construed in accordance with their usual and ordinary meanings, and not in favor of or against either party hereto. Paragraph Readings are not a part of this Agreement, but are only for convenience.

8.7 Nonwalver of Rights. Failure of either party hereto to enforce any of this provisions of this Agreement or any rights with respect thereto or failure to exercise any election provisions, rights or elections or in any way affect the validity of this Agreement. The failure of either party to exercise any of said provisions, rights or elections shall not preclude or prejudice such party from later enforcing or exercising the same or any other provisions, rights or elections shall not preclude or prejudice such party from later enforcing or exercising the same or any other provisions, tablen by Yahaeha, subsequent to termination of Bits Agreement, them not be countrued to be a detentionment of Sersiss Cantes, Semice Canter may be tenestated only by the exemution of a new Service Canter Agreement by both Francise Canter and Yacaban.

8.8 Imaildity. If any term, provision, covenant ar readition of this Agreement is held by a court of compatent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

8.8 Notice. All metices required or parmitted to be given or made under this Agreement may be distributed it when by certified mail, passage proposid, reterm comparise taqueousd, and shell be downed antimemeticated theme (3) days from the mailing thereof.

8.10 Release of Cloims, Service Center waives and releases any and all claims of any kind and nature whatsoever which Service Center has against Yamaha, which arises out of or in connection with any prior agreement.

IN WITENESS VINEPECF, the parties hereto have executed this Agreement on this \_\_\_\_\_\_ day of \_\_\_\_\_\_ 20\_\_\_\_\_, Service Center expressly acknowledges that it has read this Agreement in im mitinaty and undermunds in nights and responsibilities under this Agreement and the provisions resulting to termination.

YAMAMA USE ONLY	· · · · ·
"үлмана"	"SERVICE CENTER"
YAMAHA MOTOR CORPORATION, U.S.A. A California Corporation	Business Name:
By:	By: (Authorized Signature)

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