

OUTBOARD ENGINE TRAINING PROGRAM AGREEMENT

THIS TRAINING PROGRAM AGREEMENT (this "Agreement") is entered into as of July 15, 2015 (the "Effective Date"), by and between Yamaha Motor Corporation, U.S.A. ("YMUS") located at 1270 Chastain Road, Kennesaw, GA 30144 and The School Board of Sarasota County, Florida through its Suncoast Technical College located at 4748 Beneva Road, Sarasota, Florida 34233 ("Technical School").

RECITALS

- A. WHEREAS, YMUS is the United States distributor of Yamaha-brand outboard engines ("Outboard Engines") and desires to promote and encourage the proper technical training of such technicians in the repair and maintenance of Outboard Engines; and
- B. WHEREAS, Technical School develops and conducts programs for specialized training of outboard engine technicians; and
- C. WHEREAS, Technical School desires to establish a high-level Outboard Engines training program ("Yamaha Training Program") at its campus ("Campus") located at 4748 Beneva Road, Sarasota, Florida 34233; and
- D. WHEREAS, YMUS desires to provide training aids, instructional materials and Outboard Engines in support of the Yamaha Training Program.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

AGREEMENT

1. Technical School Obligations.

1.1. Maintenance of Licenses.

1.1.1. Technical School shall maintain all licenses, approvals, accreditations, certifications and endorsements (collectively referred to herein as "Qualifications") as set forth in the applicable accreditations and Technical School training materials. Technical School shall notify YMUS immediately upon becoming aware that Technical School may lose or has lost any Qualification, including Qualifications obtained by Technical School subsequent to the Effective Date, and provide YMUS with a written explanation for the potential loss or loss of such Qualification.

1.1.2. Upon loss of any such Qualification, including Qualifications obtained by Technical School subsequent to the Effective Date, YMUS, in its sole discretion, may terminate this Agreement.

1.2. Detrimental Acts. Technical School shall neither act nor fail to take actions which, in the sole judgment of YMUS, are detrimental or harmful to the good name, good will or

reputation of Yamaha, its trademarks, tradenames, or service marks, or any of the Outboard Engines.

1.3. Reproduction of Service Related Manuals. Technical School may reproduce and distribute Yamaha service related materials, which have been copyrighted by YMUS solely for use in connection with training programs related to the Outboard Engines.

1.4. Purchase of Yamaha Parts. Technical School may purchase parts for Outboard Engines from YMUS and Technical School may be authorized for a one thousand dollar (\$1,000) credit line with YMUS on thirty (30) day terms. YMUS may, in YMUS' sole discretion, approve a higher credit limit and terms for Technical School.

2. YMUS Rights and Obligations.

2.1. Outboard Engines.

2.1.1. Donated Products. Following execution of this Agreement, YMUS may, from time to time, supply to Technical School reasonable quantities of Outboard Engines ("Donated Products") to facilitate the purposes of this Agreement. Prior to delivery of the Donated Products, Technical School shall execute the YMUS Donation and Use Agreement, attached as Appendix A.

2.2. Continuing Support of Technical School Activities. YMUS shall use commercially reasonable efforts to support Technical School's Yamaha Training Program by providing Donated Product when available, YMBS access, parts information, service and owners manuals, technical bulletins, and other updated information and materials for use in Technical School's training classes at no cost to Technical School.

2.3. Parts Ordering and Online Communication System.

2.3.1. Access.

2.3.1.1. Subject to the provisions of Section 2.3.2, YMUS shall provide authorized Technical School representatives (including students actively enrolled in the Yamaha Training Program) with limited access to YMUS's proprietary on-line marine business parts ordering and communication system ("YMBS").

2.3.1.2. Technical School has been assigned YMUS account number _____ and authorized Technical School administrators may order replacement parts for Outboard Engines at dealer cost. Yamaha Training Program students may receive limited access to the YMBS service manuals library.

2.3.1.3. To qualify students for such service library access, Technical School will transfer student identification information programmatically through the File Transfer Protocol process to YMUS on a weekly basis.

2.3.1.4. YMUS will activate a student ID and password at the commencement of his or her enrollment in the Yamaha Training Program and deactivate the student upon leaving such program.

2.3.2. Provision of Connectivity: Infrastructure. YMUS shall not be responsible for the supply of any computers, computer-related or other technology infrastructure that may be necessary to facilitate such access to YMBS by Technical School

representatives and students. Any and all costs and expenses related to Technical School's ability to connect with or order from YMUS shall be borne by Technical School, including, but not limited to, internet service provider connection fees, shipping and delivery charges, and the cost of any parts ordered.

2.3.3. Parts Ordering. Technical School may purchase parts from YMUS for Training School training purposes only. Training School agrees that it will not order parts for purposes of resale as a retail outlet for Yamaha parts.

2.3.4. Audit. YMUS reserves the right to audit Technical School's YMUS use and parts orders at anytime. Any unauthorized YMUS use or parts orders for any purpose other than training may result in immediate termination of this Agreement.

2.4. Use of Yamaha Name, Trademarks, Tradenames, Service Marks and Logotypes.

2.4.1. In connection with Technical School's obligations under this Agreement, Technical School shall have the non-exclusive, non-transferable and non-assignable right to use Yamaha's name, trademarks, tradenames, and service marks; provided, however, that Technical School must provide YMUS with a copy of any advertisements, promotional materials and Technical School brochures, whether printed, broadcasted, or televised, or otherwise transmitted or delivered through any means, including, but not limited to, transmission over the internet, which use or contain the Yamaha name, trademark, tradename, or service mark, for review and approval by YMUS prior to its use by Technical School.

2.4.2. Yamaha shall have the right, in its sole discretion, to determine the manner and use of, or limit the use of, Yamaha's name, trademarks, tradenames, and service marks by Technical School. In the event YMUS changes its trademarks, tradenames, and service marks, YMUS agrees to promptly provide the revised trademarks, tradenames, and service marks to Technical School to ensure that Technical School is using the most current version. With respect to any usage of the Yamaha name, trademarks, tradenames, and service marks, Technical School agrees to abide by the logo and trademark usage guidelines and instructions ("Yamaha Logo and Trademark Use Guidelines") attached hereto as Appendix B.

2.4.3. Upon termination or expiration of this Agreement, Technical School shall as soon as reasonable, but in no event later than one (1) month after the date of termination or expiration, cease using Yamaha's name, trademarks, tradenames, and service marks.

2.5. YMUS Contact. For any issues relating to Outboard Engines or technical support that arises from this Agreement, Technical School may call YMUS at 1-800-353-5900 for assistance.

3. Term.

3.1. The initial term of this Agreement shall commence on the Effective Date, and continue in effect for one (1) year, unless earlier terminated under the provisions of Section 4. Thereafter, this Agreement shall automatically renew on a year-to-year basis unless either party notifies the other party in writing of an intention not to renew no later than ninety (90) days prior to the scheduled renewal date.

4. Termination.

- 4.1. Termination - Default. Either party hereto may terminate any part or all of this Agreement for a material breach of this Agreement by the other party upon thirty (30) days written notice of such breach to the other party. If the breaching party does not cure the breach within such thirty (30) day period, then the other party may immediately terminate this Agreement without further notice.
- 4.2. Termination Upon Occurrence of Certain Events. Either party shall have the right to terminate this Agreement upon written notice of termination to the other party upon the occurrence at anytime of anyone of the following events:
- 4.2.1.1. the other party files a voluntary petition in bankruptcy;
 - 4.2.1.2. the other party is adjudicated as bankrupt;
 - 4.2.1.3. the other party makes an assignment for the benefit of its creditors;
 - 4.2.1.4. a competent court assumes jurisdiction of the assets of the other party under a bankruptcy or reorganization act; or
 - 4.2.1.5. a trustee or receiver is appointed by a court overall or substantially all of the assets of the other party.
- 4.3. Termination Without Cause. Either party may terminate this Agreement without cause upon ninety (90) days prior written notice to the other party.
- 4.4. No Repurchase. YMUS shall not be obligated to repurchase any Yamaha-related training materials upon the expiration or termination of this Agreement. Such materials include, but are not limited to, parts, tools, manuals, and Outboard Engines.

5. Confidentiality.

- 5.1. Confidentiality.
- 5.1.1. Technical School acknowledges and understands that in connection with this Agreement Technical School will receive certain manuals, plans, blueprints, bulletins, directives, information and other documents which are proprietary and confidential ("Confidential Information").
 - 5.1.2. Technical School shall hold in confidence all Confidential Information received from YMUS and shall not disclose the Confidential Information to any third party without the prior written consent of YMUS.
 - 5.1.3. Notwithstanding the foregoing, Technical School may disclose the Confidential Information to Technical School's employees for the purpose of performing the obligations and duties of this Agreement, but only to those employees who have a need to know and who have bound themselves to the confidentiality provisions of this Agreement.
- 5.2. Exceptions. Technical School shall not be prevented from disclosing any Confidential Information which (a) has been part of the public domain through no fault of Technical School; (b) was already in Technical School's possession prior to any disclosure of the

Confidential Information by YMUS; (c) has been or is hereafter obtained by Technical School from a third party under no obligation of confidentiality to YMUS; (d) is independently developed by Technical School; or (e) is required by law.

6. Indemnification by Technical School. Technical School shall indemnify and defend YMUS, Yamaha Motor Company, Ltd., and their respective affiliates, subsidiaries, officers, directors, shareholders, agents, representatives, employees, successors and assigns, from all liability for any loss, damage or injury to persons or property, including, without limitation, reasonable attorneys' fees, arising from or related to the performance of this Agreement except to the extent caused by the gross negligence or willful misconduct of YMUS. The foregoing notwithstanding, the parties acknowledge Technical School is a governmental entity subject to Section 768.28, Florida Statutes, and is self-insured for claims of \$200,000 per claim and \$300,000 per incident. It is agreed that Technical School's liability shall not exceed those amounts and that nothing herein waives the Technical School's sovereign immunity or the provisions of Section 768.28, Florida Statutes.
7. No Consequential Damages. Except for a breach of Section 2.4, Section 5 and the performance of the indemnification obligations with respect to third party claims set forth in Section 6 above, neither YMUS nor Technical School shall be liable to the other for any special, indirect, incidental or consequential damages resulting from performance or nonperformance of the obligations under this Agreement.
8. General Provisions.

8.1. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail (postage prepaid, return receipt requested) or sent by nationally recognized overnight courier service. Notices shall be deemed received (a) if personally delivered, upon the date of delivery to the address of the person to receive such notice; or (b) if by registered or certified mail, the date of signing for the mail, or (c) if by nationally recognized overnight courier service, the date the parcel is delivered. All such notices or other communications shall be addressed as follows:

To Technical School: _____

Attention: _____

To YMUS: Yamaha Motor Corporation, U.S.A.
1270 Chastain Road
Kennesaw, GA 30144
Attention: Joe Maniscalco

With a copy to: Yamaha Motor Corporation, U.S.A.
1270 Chastain Road

Kennesaw, GA 30144
Attention: Nicole R. Mancusi, Esq.

- 8.2. No Assignment; Successors in Interest. Neither party shall assign this Agreement or any obligation or right thereunder, without the prior written consent of the other party. For purposes of this Section, neither party shall assign this Agreement or any obligation or right thereunder by operation of law, including but not limited to, the sale or transfer of all or substantially all of such party's assets, or the sale or transfer of a majority of the stock of such party, without the other party's prior written consent. All provisions of this Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective successors and assigns of the parties hereto, if assignment or succession is allowed here under.
- 8.3. Law Governing; Venue. This Agreement shall be governed by, interpreted under and enforced in accordance with the laws of Georgia. Any action brought to enforce or interpret this Agreement shall be filed in Georgia.
- 8.4. Severability. In the event that anyone or more provisions contained in this Agreement should for any reason be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such unenforceable provision(s) had not been contained herein.
- 8.5. Waiver. The waiver by a party of the performance of any covenant, condition, obligation, representation, warranty or promise in this Agreement shall not invalidate this Agreement or be deemed a waiver by such party of any other covenant, condition, obligation, representation, warranty or promise. The waiver by any party of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 8.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument. A facsimile of this Agreement bearing a party's signature shall have the same legal force and effect as an original of such signature.
- 8.7. Complete Agreement; Amendments. This Agreement supersedes all prior agreements and all representations, warranties, undertakings and understandings of and between the parties with respect to the same subject and is the entire agreement of the parties as to such subject matter. Any amendments to this Agreement shall be in writing and shall be signed by all parties hereto.
- 8.8. Headings; Cross-References. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement.

8.9. Authority. Each party represents that it has full authority to enter into this Agreement, grant the rights and benefits herein described, and satisfy the obligations hereunder, without violating the rights of any third parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date above.

YAMAHA MOTOR CORPORATION,
U.S.A.

THE SCHOOL BOARD OF SARASOTA
COUNTY, FLORIDA THROUGH ITS
SUNCOAST TECHNICAL COLLEGE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

DOCUMENT APPROVED FOR LEGAL CONTENT

8/5 20 15 ,BY

A. LAMAR MATTHEWS, JR
MATTHEWS, EASTMOORE, HARDY, CRAUWELS & GARCIA
ATTORNEYS FOR

THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA

SIGN: ASR

APPENDIX A

DONATION AND USE AGREEMENT

This Donation and Use Agreement (this "Agreement") is made and entered into as of _____, 20____ ("Effective Date") by and between Yamaha Motor Corporation, USA ("YMUS"), and _____ ("Recipient").

RECITALS

- A. YMUS is the United States distributor of Yamaha-brand outboard engines.
- B. YMUS is the owner of the Outboard Engines identified on Exhibit A (the "Outboard Engines") attached hereto and incorporated by reference.
- C. Recipient is an educational institution, non-profit, or other organization that has solicited the donation of the Outboard Engines from YMUS.
- D. YMUS has agreed to donate the Outboard Engines to Recipient for educational purposes subject to the terms and conditions in this Agreement.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

- 1. Donation of the Outboard Engines. YMUS does hereby grant, bargain, sell, convey, assign, and transfer to Recipient all of its rights, title and interest in and to the Outboard Engines identified on Exhibit A subject to the terms and conditions herein.
- 2. Restricted Use.
 - 2.1. Recipient represents, warrants and covenants that: (i) the Outboard Engines shall not be used by anyone for any purpose whatsoever (unless authorized by YMUS in writing which authorization shall not be unreasonably withheld); (ii) the Outboard Engines shall not be assigned, sold, donated, lent, or otherwise transferred to any person, entity, or individual (unless authorized by YMUS in writing) or as may be necessary to scrap or destroy the Outboard Engines; and (iii) the Outboard Engines shall not be modified or altered in any way and shall be maintained in stock configuration.
 - 2.2. Without limiting the generality of the foregoing, Recipient further represents, warrants and covenants that:
 - 2.2.1. Recipient shall be solely responsible for all assembly, disassembly, maintenance and repair of the Outboard Engines; and
 - 2.2.2. Recipient shall store the Outboard Engines at its site in a secure area so as to prevent their unauthorized use.

3. Compliance with Laws. Recipient shall comply with all applicable laws with respect to the Outboard Engines.

4. No Warranty. THE OUTBOARD ENGINES ARE BEING DONATED BY YMUS TO RECIPIENT IN AN "AS-IS" CONDITION. YMUS DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE OUTBOARD ENGINES OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF COMPLIANCE WITH ANY LAWS, ORDINANCES, RULES OR REGULATIONS, TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE WHATSOEVER, (WHETHER OR NOT YMUS KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, YMUS EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN RECIPIENT WITH RESPECT TO THE OUTBOARD ENGINES OR ANY PART THEREOF.

5. Right of Recall. In the event of a recall arising from a safety hazard or other product defect, Recipient acknowledges that YMUS shall have the exclusive, unfettered and absolute right at any time to require Recipient to return the Outboard Engines to YMUS, immediately upon written notice from YMUS to Recipient, without any liability, payment or other compensation to Recipient.

6. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail (postage prepaid, return receipt requested) or sent by nationally recognized overnight courier service. Notices shall be deemed received (a) if personally delivered, upon the date of delivery to the address of the person to receive such notice; or (b) if by registered or certified mail, the date of signing for the mail, or (c) if by nationally recognized overnight courier service, the date the parcel is delivered. All such notices or other communications shall be addressed as follows:

To Technical School: _____

Attention: _____

To YMUS: Yamaha Motor Corporation, U.S.A.
 1270 Chastain Road
 Kennesaw, GA 30144
 Attention: Joe Maniscalco

With a copy to: Yamaha Motor Corporation, U.S.A.

1270 Chastain Road
Kennesaw, GA 30144
Attention: Nicole R. Mancusi, Esq.

7. Indemnification and Release. Recipient shall indemnify and hold harmless Yamaha Motor Corporation, U.S.A., Yamaha Motor Company, Ltd., and their respective affiliates, subsidiaries, officers, directors, shareholders, agents, representatives, successors, and assigns from and against any and all lawsuits, claims and similar matters (collectively, "Claims"), including, without limitation, reasonable attorneys' fees, resulting or arising from personal injury or property damage caused by recipients use of the Outboard Engines except to the extent arising out of the gross negligence or willful misconduct of YMUS. Recipient assumes all risk of damage to property and injury to persons caused by the Outboard Engines. The foregoing notwithstanding, the parties acknowledge Technical School is a governmental entity subject to Section 768.28, Florida Statutes, and is self-insured for claims of \$200,000 per claim and \$300,000 per incident. It is agreed that Technical School's liability shall not exceed those amounts and that nothing herein waives the Technical School's sovereign immunity or the provisions of Section 768.28, Florida Statutes.
8. Survival of Representation and Warranties. All representations, warranties, covenants and agreements of the parties in this Agreement, or in any instrument or other writing provided for herein, shall survive the execution and delivery of this Agreement. Moreover, Recipient hereby acknowledges that the representations, warranties and covenants of Recipient in this Agreement, including without limitation with regard to the restrictions on the use and transferability of the Outboard Engines, are intended to induce YMUS into donating the Outboard Engines to Recipient, and YMUS is relying on such representations, warranties and covenants of Recipient in donating the Outboard Engines to Recipient hereunder.
9. Equitable Relief. It is agreed that the rights granted to the parties hereunder are of a special and unique kind and character and that, if there is a breach by any party of any material provision of this Agreement, the other party or parties would not have an adequate remedy at law. It is expressly agreed, therefore, that the rights of the parties hereunder may be enforced by equitable relief as is provided under the laws of the State of Georgia.
10. Full Authority. Each of the parties and signatories to this Agreement represents and warrants that they have the full right, power, legal capacity and authority to enter into and perform the parties' respective obligations hereunder and that such obligation shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith.
11. Miscellaneous.
 - 11.1. Applicable Law. This Agreement shall, in all respects, be governed by, interpreted under and enforced in accordance with the laws of the State of

Georgia. Any action brought to enforce or interpret this Agreement shall be filed in Georgia.

- 11.2. Severability. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions contained herein and any present or future statute, law, ordinance or regulation, the latter shall prevail; but the provision of this Agreement which is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.
- 11.3. Further Assurances. Each of the parties hereto shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder to carry out the intent of the parties.
- 11.4. Modification or Amendments. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties.
- 11.5. Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs legal representatives, successors and assigns.
- 11.6. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby terminated and cancelled in their entirety and are of no further force or effect.
- 11.7. Non-Waiver. No waiver by any party hereto of a breach of any provision of this Agreement shall constitute a waiver of any preceding or succeeding breach of the same or any other provision hereof.
- 11.8. Counterparts; Facsimile Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties here to have executed this Agreement as of Effective Date above.

YAMAHA MOTOR CORPORATION, U.S.A.

By: _____

Its: _____

THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA
THROUGH ITS SUNCOAST TECHNICAL COLLEGE

By: _____

Its: _____

EXHIBIT "A"

Outboard Engines:

APPENDIX B

YAMAHA LOGO AND TRADEMARK USAGE GUIDELINES