

## BAILMENT AGREEMENT

**THIS BAILMENT AGREEMENT** ("Agreement") is effective as of the 08 day of May, 2024 by and between Yanmar Compact Equipment North America, Inc., a Delaware Corporation with principal offices located at 841 Lily Lane, Grand Rapids, Minnesota ("YCENA") and City of Grand Rapids {MN} ("Bailee"). YCENA hereby agrees to lend from time to time items ("Bailed Property"), which may or may not be listed on a "Bailed Property Detail Form," a copy of a Bailed Property Detail Form is attached hereto as Exhibit A, to Bailee, for the following purpose: set forth on Exhibit A (the "Purpose"), on the terms and conditions set forth below; the Bailee, in consideration for such bailment, hereby accepts and agrees to such terms and conditions.

1. The term of this Agreement shall commence effective as of the date the Bailed Property is possessed by Bailee and extend until all such Bailed Property has been returned to YCENA as provided in this Agreement; provided, however, that YCENA may terminate the bailment at any time upon written notice to Bailee. If, for any reason, YCENA terminates this Agreement, Bailee hereby agrees that YCENA may, in its discretion, without notice, liability or legal process, enter the premises where the Bailed Property may be and take possession thereof, whether at Bailee's premises or its supplier(s).
2. At all times, YCENA shall retain full title to and ownership of the Bailed Property. Bailee or its supplier(s), shall have exclusive possession of and control over the Bailed Property, and Bailee shall assume full responsibility and risk of loss for the Bailed Property and its use. Bailee agrees not to remove or allow the removal of the Bailed Property from its premises or at its supplier(s)' premises without YCENA's prior written approval.
3. Bailee accepts and will cause its supplier(s) to accept the Bailed Property "AS IS, WHERE IS." YCENA makes no warranties, express or implied, with respect to the Bailed Property, and YCENA expressly disclaims all warranties, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Bailee acknowledges and will cause its supplier(s) to acknowledge that YCENA has not made and does not hereby make any representation, warranty, or covenant with respect to the title, merchantability, condition, quality, description, durability, or suitability of the Bailed Property in any respect or in any connection with or for the purposes and uses of Bailee. YCENA hereby assigns to Bailee during the term of this Agreement all of YCENA's rights under applicable manufacturers' warranties with respect to the Bailed Property.
4. Bailee shall not assign and will cause its supplier(s) not to assign this Agreement or any interest therein, and Bailee shall not lease, assign, loan or sell and will cause its supplier(s) not to lease, assign, loan or sell any of the Bailed Property or any interest therein, without YCENA's prior written consent. In addition, Bailee shall keep the Bailed Property free and clear of all liens, claims, and encumbrances during the term of this Agreement. Bailee may not terminate this Agreement unless and until it has returned all Bailed Property as provided in this Agreement. Any such return or termination by Bailee shall not release Bailee from any obligations under any other contract (e.g., supply agreement or purchase order). THE PARTIES ACKNOWLEDGE AND AGREE THAT THE EQUIPMENT IS PROPRIETARY TO YCENA, IT IS PROVIDED AND SUBMITTED TO BAILEE IN COMPLETE CONFIDENCE, AND SHALL BE USED SOLELY FOR THE PURPOSE FOR WHICH IT IS FURNISHED. BAILEE SHALL PROPERLY ADVISE ITS REPRESENTATIVES, AGENTS AND EMPLOYEES OF THE CONFIDENTIAL NATURE AND TREATMENT OF THE EQUIPMENT. THE EQUIPMENT, DETAILS THEREOF, AND ASSOCIATED DESIGN AND MATERIALS SUCH AS ITS USE, CONTENT, CONSTRUCTION, FUNCTION, CHARACTERISTICS, OPERATIONS, AND OPERATING AND MAINTENANCE MANUALS ARE NOT TO BE REPRODUCED, TRANSMITTED, OR DISCLOSED IN WHOLE OR IN PART TO ANY PERSONS OR ENTITIES OUTSIDE OF BAILEE WITHOUT THE PRIOR WRITTEN CONSENT AND AUTHORIZATION OF YCENA. BAILEE WILL COOPERATE BY PROVIDING TO YCENA, UPON REQUEST, ANY OBSERVATIONS REGARDING THE EQUIPMENT BEHAVIOR OR OTHER COMMENTS, INCLUDING, BUT NOT LIMITED TO MAINTENANCE OR ACTIVITY LOGS OR OTHER SIMILAR RECORDS. SPECIFICALLY, BAILEE SHALL NOT ALLOW VISIBILITY, VIEWING, CONTACT WITH OR ACCESS TO THE EQUIPMENT BY ANY THIRD PARTY OR THERMO KING COMPETITORS. NOR SHALL BAILEE REVERSE ENGINEER, OR USE IN THE EQUIPMENT IN ANY OTHER WAY THAN FOR THE PURPOSE HEREOF.

5. Bailee agrees to be solely responsible for the installation of the Bailed Property and for any and all devices necessary for the proper operation and use of the Bailed Property, and shall be responsible for training operators and others as necessary in the proper operation, use, application and maintenance of the Bailed Property. YCENA expressly disclaims any and all responsibility with respect to such matters.
6. Bailee agrees to be solely responsible for proper maintenance and repair of the Bailed Property, and will maintain the Bailed Property in good order and condition, save normal wear and tear. In this regard, Bailee's responsibility will include complete compliance with all manufacturers' instructions regarding maintenance, recall and product improvement. Bailee shall not alter the Bailed Property and shall not affix or connect any accessory Bailed Property or device to the Bailed Property, if such alteration or addition would impair or reduce the value of such Bailed Property or would impair the safe use, operation or application of the Bailed Property. Any such alteration or addition to the Bailed Property shall not affect title or ownership of the Bailed Property and any such alteration or addition shall become the sole property of YCENA.
7. Bailee will use and will cause its supplier(s) to use the Bailed Property exclusively in connection with work performed for YCENA, unless YCENA agrees otherwise in writing.
8. Bailee shall indemnify, defend, save and hold harmless YCENA, its subsidiaries, affiliates, directors, officers, employees, representatives, agents and successors and assigns, from and against any and all claims, demands, losses, suits and judgments and all costs and expenses in connection therewith, including attorneys' fees, arising out of or in any way related to the Bailed Property, this Agreement, or any other property of YCENA provided to Bailee or its supplier(s), even if not identified on a Bailed Property Detail Form and including without limitation, any of the foregoing involving allegations of negligence on the part of YCENA or any theory of YCENA's strict liability in tort.
9. Bailee is required to purchase Property Insurance against all risks of loss to any Bailed Property in Bailee's care, custody or control at full replacement cost with no coinsurance penalty provision. Such coverage will include YCENA as loss payee with respect to all of the Bailed Property in Bailee's care, custody or control. Additionally, Bailee shall maintain Commercial General Liability Insurance (Occurrence Coverage) including products, completed operations and contractual liability coverage of indemnities contained in this Agreement, with a minimum combined single limit of liability of the equivalent of Two Million US Dollars (USD\$2,000,000) per occurrence for bodily injury or death and property damage, throughout the entire term of this Agreement. The limit set forth is a minimum limit and shall not be construed to limit Bailee's liability. All cost and deductible amounts shall be for the sole account of Bailee. All such policies required shall be in such form and with such companies as YCENA shall reasonably approve, shall specify YCENA and Bailee as named insureds, shall be primary, without right of contribution from any other insurance carried by YCENA, shall waive subrogation rights in favor of YCENA and shall provide that such policy may not be canceled or altered so as to affect the interest of YCENA without at least thirty (30) days' prior written notice to YCENA. All policies covering loss or damage to the Bailed Property shall name YCENA as loss payee and shall be payable solely to YCENA. Prior to receipt of the Bailed Property, Bailee shall deliver to YCENA, in form and substance satisfactory to YCENA, evidence of such insurance coverage.
10. Bailee agrees and will cause its supplier(s) to agree to execute any documents as may be required by YCENA to reflect YCENA's ownership of the Bailed Property, including, without limitation, any and all documents and amendments thereof with the applicable government or administrative authorities. While the Bailed Property remains in the possession or control of Bailee or its supplier(s), Bailee shall ensure that at all times the Bailed Property clearly displays signs or markings attached thereto evidencing YCENA's ownership of the Bailed Property.
11. Bailee shall pay all fees, assessments and sales, use, property and other taxes hereafter imposed on the Bailed Property during the term of this Agreement.
12. YCENA shall have the right (but not the obligation) at all reasonable times to inspect the Bailed Property and observe its use. YCENA assumes no responsibility and waives no rights as a result of any such inspection or observation, or decision not to inspect or observe.
13. With the exception of those items that YCENA agrees, in writing, have been worn out or used up in the normal course of use, and with the exception of those items YCENA agrees, in writing, have become obsolete, Bailee agrees at Bailee's expense to return (including removing, crating, loading and delivering) the Bailed Property FCA (Incoterms

2010) to YCENA's facility or another reasonable mutually agreed location, upon either (i) written request of YCENA or (ii) termination of this Agreement.

14. When written notice is required by this Agreement, it shall be sent by certified mail, by hand, by courier, or by such method as will permit the sender to verify delivery, to the addresses set forth below:

For YCENA:

YANMAR COMPACT EQUIPMENT  
NORTH AMERICA, INC.  
Attn:  
841 Lily Lane  
Grand Rapids, Minnesota

Copy to YCENA Legal Department:

Attn: Yanmar Americas Legal Department  
101 International Parkway  
Adairsville, Georgia 30103

For Bailee:

City of Grand Rapids  
Attn: City Administrator  
420 N. Pokegama  
Grand Rapids, MN  
55744

Written notice may also be sent by facsimile or electronic mail ("e-mail") to the numbers listed above, but such notice shall not be effective unless the sender receives a return facsimile or e-mail acknowledging receipt of the notice. Notice shall be deemed received when actually delivered to the recipient as demonstrated by postal records. Facsimile or e-mail notice shall be deemed received upon receipt by the sender of an acknowledgment as described. The addresses and transmittal numbers set forth above can be changed only by written notice that complies with the requirements of this section.

15. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.
16. This Agreement is the only agreement between the parties with respect to the Bailed Property and it may not be modified, extended, canceled or rescinded except in a writing signed by the parties. This Agreement replaces and supersedes all other agreements between the parties concerning the Bailed Property. Notwithstanding termination, the provisions of this Agreement survive for an additional period to protect the Bailed Property and YCENA's interest therein until such Bailed Property is returned to the YCENA in good working condition, normal wear and tear excepted. For Bailed Property located within the United States, this Agreement shall be construed in accordance with the laws of the State of Minnesota, without regard to the conflict of laws provisions thereof. Each party hereby agrees that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, Bailed Property located within the United States, will lie in the United States District Court for the District of Minnesota or the corresponding state courts governing Itasca County, Minnesota, as applicable and each party specifically waives any and all objections to such jurisdiction and venue. For Bailed Property located outside of the United States, this Agreement shall be construed in accordance with the local laws of the province, country or region where the Bailed Property is located, without regard to the conflict of laws provisions thereof. Each party hereby agrees that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, Bailed Property located outside of the United States, will lie exclusively in the courts of such province, country or region and each party specifically waives any and all objections to such jurisdiction and venue.

IN WITNESS WHEREOF, this Agreement is effective as of the date first above written.

YCENA

By: Peter D. Ovrebo

Printed Name: Peter Ovrebo

Title: YCENA Product Management Director

“Bailee”  
By: Tom Pagel

Printed Name: Tom Pagel

Title: CITY ADMINISTRATOR

**EXHIBIT A**  
**BAILED PROPERTY DETAIL FORM**

**BAILED PROPERTY:**

Yanmar TL75VS-Serial # ASVTL075PR0000054

**PURPOSE:**

Demonstration and customer feedback

This machine is to be delivered to City of Grand Rapids {MN} with a date of July 26, 2024 for return at this point.

### Mutual Confidentiality and Nondisclosure Agreement

This mutual non-disclosure agreement ("NDA") is effective as of the latest date of signature below by and between the following Parties:

Yanmar Compact Equipment North America, Inc. ("YCENA")	City of _____ ("Company") Grand Rapids
840 Lily Lane Grand Rapids, Minnesota 55744 USA	420 N. Pokegama Grand Rapids, MN 55744 (Company Address)

#### 1.0 Purpose and Relationship of Parties.

- 1.1 YCENA and Company may explore or propose certain concepts, development opportunities, or other business arrangements with each other related to Yanmar CTL TL75VS Serial #: ASVTL075PR0000054. This is the "Purpose" for this NDA. To accomplish that Purpose, each Party may provide certain confidential or proprietary information to the other. This NDA protects the confidentiality of that information.
- 1.2 The Parties are independent contractors and are not partners, agents, or employees of each other. This NDA does not create or govern any other relationship between the Parties; among other things, this does not create a teaming, joint venture, partnership, joint development, co-ownership or any other type of relationship or any obligation of any kind to discuss, consider, negotiate toward, or enter into any relationship of any kind in the future, even if the Parties have discussed, proposed, or considered such a relationship at any time. Neither Party bears any obligation to pay anything to the other Party (including reimbursement of costs) or to purchase any products or services due to this NDA.
- 1.3 If, in the future, the Parties elect to enter into a binding commitment regarding the Purpose, such commitment will be explicitly stated in a separate written agreement executed by both Parties, and the Parties hereby affirm that they do not intend their discussions, correspondence, and other activities to be construed as forming a contract regarding the Purpose or any other transaction between them without execution of such separate written agreement. Moreover, neither Party is responsible or liable for any business decisions made or inferences drawn by the other Party in reliance on this NDA or in reliance on actions taken or disclosures made pursuant to this NDA. The Parties also acknowledge that this NDA does not restrict the ability of the Parties to engage in their respective businesses, nor does it limit either Party's use or application of any information or knowledge acquired independently of the other Party without a breach of this NDA in the course of such other Party's business, such that neither this NDA nor the disclosure or receipt of Proprietary Information pursuant this NDA shall be interpreted to preclude a receiving Party from acquiring, developing or commercializing products or technologies comparable to those of the disclosing Party so long as and to the extent that such acquiring, developing or commercializing does not involve any use of or reference to the disclosing Party's Proprietary Information and does not otherwise represent a breach of this NDA.

#### 2.0 Definition of "Proprietary Information."

- 2.1 "Proprietary Information" means the existence or contents of this NDA. It also means confidential information related to the Purpose that one Party discloses to the other or that can be derived from that information or copies of the information, regardless of whether it

is transmitted electronically, orally, visually, or physically. It generally includes information about processes, methods, products, samples, prototypes, equipment, materials, compositions, inventions, discoveries, ideas, concepts, calibration procedures and processes, specifications, know how, business forecasts, strategic initiatives, production costs, pricing (other than list pricing), business and marketing plans, budgets and financial results, employee or contractor lists, business methods or procedures, research and development, technical or engineering information, formulas, designs, blueprints, trade secrets, patent applications, software development tools, pricing, sales data, prospect and customer lists, dealer information, terms of commercial contracts, software, hardware, and other information of a similar nature, whether or not patentable or copyrightable, whether disclosed orally, electronically or in tangible form, provided that, if disclosed orally, the occurrence and content of the disclosure can be substantiated by other written or electronic records created within thirty (30) calendar days of the original disclosure.

2.2 *In addition to the materials described in Section 2.1*, "Proprietary Information" also includes anything that a Party clearly and conspicuously designates in writing as "Proprietary" or "Confidential." Information that can only be read by machine must include the "Proprietary" or "Confidential" designation in conspicuous, human readable, format. Unwritten material (other than that listed in Section 2.1) becomes Proprietary Information only if the disclosing Party designates the information as Proprietary Information at the time of disclosure and then notifies the receiving Party in writing within thirty (30) days of the disclosure that the designated, specific information constitutes Proprietary Information. However, in case of failure to identify, designate, label or mark tangible information or to provide a summary of oral or tangible information, such information shall be deemed to be Proprietary Information provided it is obviously of a confidential nature.

2.3 Regardless of anything in Section 2.1 or 2.2, and regardless of whether or when the receiving Party asserts any of the following exceptions to the disclosing Party, the following information is not Proprietary Information if:

2.3.1 The receiving Party demonstrates it possessed it before receiving it from the disclosing Party, free of any obligation to keep it confidential, as evidenced by records that were in existence prior to that first disclosure.

2.3.2 It is available publicly through no wrongful act of the receiving Party ("available publicly" includes, for example, any information a receiving Party learns in a setting such as a tradeshow or product demonstration).

2.3.3 The receiving Party received the information through a source other than the disclosing Party, whose disclosure to the receiving Party is unrestricted and does not violate any confidentiality obligation, and through no wrongful act of the receiving Party.

2.3.4 The receiving Party independently develops the information by or on behalf of the receiving Party, independent of any Proprietary Information disclosed under this NDA, as evidenced by records kept in the ordinary course of business.

2.3.5 Any combination of these exceptions applies.

### **3.0 Duties to protect Proprietary Information.**

3.1 Each Party must use Proprietary Information only in good faith furtherance of the Purpose and not for any other reason.

3.2 Each Party must keep Proprietary Information confidential and disclose to its own

workforce and group company affiliates, including bona fide professional legal and financial external advisors ("Authorized Representatives"), only on a "need to know" basis, and require all such Authorized Representatives to whom Proprietary Information is disclosed to abide by the terms of this NDA or another enforceable written agreement with confidentiality and use restrictions and applicable to the Proprietary Information that are no less restrictive and no shorter in duration than those of this NDA. No Party may disclose Proprietary Information to any third party except as may be explicitly permitted by this NDA or as explicitly permitted in writing by the disclosing Party from time to time.

3.3 No Party may use Proprietary Information in ways that compete with the disclosing Party.

3.4 The Parties shall not copy or distribute Proprietary Information or knowingly allow anyone else to copy or distribute such Proprietary Information, except to the extent necessary for the Purpose. Each Party must carefully limit the number of copies of Proprietary Information to the least feasible number of copies, whether those copies are electronic or in another format. All copies must retain any restrictive legends identifying the information as Proprietary Information.

3.5 A Party may disclose Proprietary Information pursuant to bona fide government demands (including judicial, agency, regulatory, and Congressional demands) but only after first notifying the disclosing Party (unless prohibited by law) in writing and permitting the disclosing Party (at its own expense) a reasonable time to object to the disclosure and either limit the disclosure or negotiate appropriate safeguards with the government entity. If, in the absence of a protective order, the receiving Party determines, upon the advice of counsel, that it is required to disclose such information, it may disclose only Proprietary Information specifically required and only to the extent compelled to do so.

3.6 The receiving Party agrees not to alter, modify, disassemble, reverse engineer, make derivative works of, decompile, or otherwise use any of the Proprietary Information, all except to the extent expressly permitted in writing and in advance by the disclosing Party.

3.7 In the event a receiving Party discovers that it or its representatives have disclosed or used the other Party's Proprietary Information in any manner contrary to this Section 3 of this NDA (a "Violation"), the respective receiving Party shall notify the disclosing Party immediately and use its reasonable best efforts to retrieve wrongfully disclosed Proprietary Information and otherwise remedy the Violation and mitigate the risk of further damage from the Violation.

3.8 In complying with these requirements, each Party must protect Proprietary Information with at least the same degree of care it uses for its own confidential or highly sensitive information. In no event may this standard of care be less than a commercially reasonable standard.

#### **4.0 Term and Termination.**

4.1 This NDA begins on the Effective Date and governs all Proprietary Information disclosed within the five (5) years after the Effective Date, unless terminated early ("Term"), and extending beyond if during that Term, the Parties enter into any separate written agreement for the provision of products or services by Company or its affiliates or subsidiaries to YCENA or its affiliates or subsidiaries in relation to the Purpose, in which case the Term shall automatically be extended throughout the term of that



separate written agreement, unless such separate written agreement expressly supersedes this NDA.

Either Party may terminate this NDA at no cost or expense by (a) providing sixty (60) days' written notice to the other Party and (b) returning or destroying all Proprietary Information as provided below. Termination of this NDA does not affect any rights or obligations of either Party as to Proprietary Information that was disclosed during the Term.

- 4.2 Irrespective of termination of this NDA, each Party must continue meeting the requirements of Section 3 of this NDA and otherwise generally protect each piece of Proprietary Information until the materials no longer constitute Proprietary Information; this may or may not ever occur. Each Party's rights and obligations under this NDA survive for that time period as to any Proprietary Information held by the Parties after this NDA expires or terminates.

#### **5.0 Return or Destruction.**

- 5.1 Neither Party may use the Proprietary Information after termination of the NDA unless otherwise agreed to in writing.

- 5.2 Upon the termination of this NDA or request of the disclosing Party, the receiving Party must immediately make good faith, commercially reasonable efforts to return or destroy any of the other Party's Proprietary Information it possesses and confirm in writing within thirty (30) days of such request, that it has taken those steps upon the other Party's reasonable written demand for destruction and confirmation and certify to the disclosing Party the Proprietary Information has been destroyed or erased.

- 5.3 Each Party is permitted to retain an archive copy of Proprietary Information in a secure area of its legal department, but that Proprietary Information must not be used for any purpose other than providing legal advice regarding this NDA or the Purpose.

- 5.4 Each Party is permitted to retain electronic back-up copies of the Proprietary Information but only to the extent that it is technologically infeasible to destroy the electronic copies or access to the Proprietary Information is limited to IT professionals with a need to access the Proprietary Information as part of their general duties and no further use is made of any Proprietary Information, provided that the receiving Party shall have a continuing obligation to maintain its confidentiality obligations and other restrictions protecting confidentiality and non-use for any information retained under this Section 5, for so long as that information is retained and thereafter for a period of five (5) years. Any Proprietary Information retained shall be held subject to the obligations of this NDA.

#### **6.0 Ownership, License, Warranties.**

- 6.1 The disclosing Party (and its licensors) retains all ownership and all other rights to the Proprietary Information. Nonetheless, each Party hereby confirms that it has such rights in and to its Proprietary Information as is necessary for disclosure to the receiving Party. No license of any kind to use any of the Proprietary

Information is expressed or implied by this NDA (whether by implication, estoppel, or otherwise), under any patents, copyrights, trade secrets, trademarks, mask works or any other intellectual property rights.

6.2 Each Party warrants that it has the right to disclose any Proprietary Information it discloses under this NDA, but each Party disclaims any warranty or representation regarding the accuracy, completeness, freedom from defects, or freedom from infringement on other intellectual property rights of others. Each Party disclaims any liability to the other Party based on any use or reliance on the Proprietary Information.

**7.0 Non-Solicitation of Customers.**

7.1 Neither Party is permitted to solicit, recruit, or similarly engage with any of the other Party's customers to the extent they were reasonably identified in any Proprietary Information. However, this provision does not apply to general market solicitations that the Party demonstrates were not influenced by Proprietary Information.

**8.0 Publicity.**

8.1 Neither Party may make public announcements regarding this NDA or its relationship with the other Party. Neither Party may use the other Party's trademarks or trade names (including contraction, abbreviation, or similar reference) that are owned by the other Party or any of its worldwide subsidiaries or affiliates.

**9.0 Indemnification and Equitable Relief.**

9.1 Each Party must indemnify the other Party against the other Party's actual, reasonable, direct, and indirect damages arising from the indemnifying Party's breach of this NDA. These damages include attorney's fees and costs of litigation.

9.2 Without limiting these indemnification rights or any other rights available at law, either Party may seek and enforce equitable relief, including injunctive relief, specific performance, or both, if the other Party breaches or threatens to breach this NDA; because each Party agrees that the damages caused by a breach of this NDA would be irreparable, each Party agrees that this equitable relief applies without the need to demonstrate damages or to post bond.

**10.0 Miscellaneous.**

10.1 This NDA is governed solely by Delaware law, without regard to any conflict of laws provisions that would require the application of the law of any other jurisdiction. In the event of any legal proceedings between the Parties for the enforcement of this NDA, whether at law or in equity, the reasonable costs and expenses incurred by the prevailing Party and its representatives in connection with such proceedings, including attorney fees and disbursements, shall be reimbursed by the non-prevailing Party. Provided, however, any attorney fee awarded must be based on actual, necessary hours of legal work and a reasonable hourly rate measured by then-prevailing rates in the applicable location, and no percentage or contingency fee can be awarded. Except with regard to governing law and venue if the Parties have a controversy, dispute or difference arising out of this NDA, nothing herein is intended to limit or

abridge the protection of trade secrets under applicable trade secrets law, and trade secrets shall be maintained as such until they fall into the public domain, despite any sooner termination of this NDA or any of its obligations. The Parties waive all rights to jury trials. If the Parties have a controversy, dispute or difference arising out of this NDA, Company may only initiate litigation in the Federal District Court for the District that corresponds to YCENA Holdings, Inc.'s principal U.S. office address as set forth in this NDA or, if such courts lack subject matter jurisdiction, in any other courts of the State and County of such address, and YCENA may only initiate litigation in the Federal District Court for the District that corresponds to Company's principal U.S. office address as set forth in this NDA or, if such courts lack subject matter jurisdiction, in any other courts of the State and County of such address. The Parties submit to the jurisdiction of said courts and waive any defense involving arguments that the forum is inconvenient. Notwithstanding the foregoing, the Parties further agree that, in any litigation initiated in a venue in compliance with the foregoing two sentences, the other Party (i.e., the Party that did not initiate such litigation) may thereafter initiate defenses, related counterclaims and the like in the same litigation, and recognizing that any appeal proceedings from a lower decision may be asserted in any court having appellate jurisdiction.

- 10.2 Neither Party may assign this NDA without the other Party's consent, except that either Party may assign this entire NDA without consent to one of its Affiliates or as part of a merger, acquisition, reorganization, or sale of substantially all of the assets of the business to which the Purpose relates, if and only if each of the following conditions are met: (i) the Party making such an assignment ("Assignor") notifies the other Party in writing of such an assignment within thirty calendar days thereafter; (ii) the party to whom this NDA is being assigned ("Assignee") is not, and is not an Affiliate of, a direct competitor of the other Party to this NDA; and (iii) prior to the assignment, the Assignee does not have, and is not an Affiliate of a third party that has, contractual relations as a customer or supplier of that other Party to this NDA. Any purported assignment or transfer contrary to the provisions of this paragraph shall be void *ab initio*. For purposes of this paragraph, an "Affiliate" of an entity shall mean a company or person that directly or indirectly owns, or is directly or indirectly owned by or commonly owned with, that entity. If it is properly assigned, it binds and inures to the benefit of the successors and assigns.
- 10.3 Neither Party's waiver of a right or any breach of this NDA constitutes a waiver of any other right or breach of this NDA.
- 10.4 If any provision of this NDA is deemed unenforceable, the remaining provisions continue in full effect and the unenforceable provisions are enforced to their maximum extent to give effect to the purposes of this NDA.
- 10.5 This NDA constitutes the full agreement of the Parties regarding the use or disclosure of Proprietary Information. It merges any prior discussions or

writings between the Parties on this subject. This NDA's protection of any Proprietary Information exchanged during the Term survives any future agreements between the Parties (if any) such as sales agreements or other commercial relationships, regardless of their merger clauses or other boilerplate provisions that generally disclaim prior agreements between the Parties. This NDA's protections may only be extinguished by explicit intent to do so, evidenced by specific written reference to this NDA in a document signed by both Parties.

- 10.6 A reference to either Party includes its relevant affiliates and subsidiaries.
- 10.7 Each Party must comply with all relevant laws in performing its duties under this NDA. Among other things, both Parties must comply with laws regulating the export of software and other technology and with laws regulating use and disclosure of confidential information in any relevant securities marketplace.
- 10.8 Any notice required or permitted by this NDA will be in writing and will be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally, (b) by overnight courier, upon written verification of delivery by the courier, (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission, or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice will be sent to the addresses set forth above or to such other address as either Party may provide in writing for purposes of notice under this NDA.

**Yanmar Compact Equipment  
North America, Inc.**

**Company**

Peter D. Ovrebo

Signature

Peter D. Ovrebo

Name

Director of Prod Mgmt

Title

5/8/2024

Date

[Handwritten Signature]

Signature

Tom Pagel

Name

CAT ADMINISTRATOR

Title

5/16/24

Date