


**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

E-11

TO: Richard Dionisio, Supervisor
Members of the Town Board

FROM: Andrea C. Rendo, Deputy Village Attorney 

DATE: September 13, 2022

SUBJECT: **Harrison Meadows Country Club Golf Cart
Lease Agreement and Maintenance Agreement**

Authorization is hereby requested for the Supervisor to execute Lease Agreement No. 004-0847233-103 with VGM Financial Services, a division of the Huntington National Bank, pursuant to acquiring Club Car golf carts for Harrison Meadows Country Club.

Further request for authorization for the Supervisor to execute the Club Car, LLC Golf Car Maintenance Agreement.

Lease payments will be made by Troon through their operating budget.

ACR:ld

Attachments

cc: Maureen MacKenzie, Comptroller



NEW YORK ADDENDUM
004-0847233-103 DATED AS OF September 7, 2022

LESSOR: VGM Financial Services, a division of The Huntington National Bank

LESSEE: Town of Harrison

This Addendum is hereby incorporated in and is hereby made a part of the above-referenced Lease Agreement (Equipment Rental) No. 004-0847233-103 (together with all Exhibits and Attachments and this Addendum, the "Lease"). Lessor and Lessee hereby agree that capitalized terms used herein and not otherwise defined herein shall have the terms assigned to such terms in the Lease and that the following changes and additions shall be made to the Lease:

1. **Section 2** of the Lease is hereby amended by adding the following sentence:

"The total of all periodic Rental Payments that include both principal and interest components made by Lessee during each year throughout the term of the Lease shall be substantially level or falling."

2. **Section 16** of the Lease is hereby deleted and the following **Section 16** is hereby inserted in lieu thereof:

"16. **ASSIGNMENT.** LESSEE AGREES NOT TO TRANSFER, SELL, SUBLEASE, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS LEASE WITHOUT LESSOR'S PRIOR WRITTEN CONSENT. Lessor, with Lessee's prior written consent, which will not be unreasonably withheld, may sell, assign or transfer this Lease and, if Lessor does, the new owner will have the same rights and benefits, but not the obligations, that Lessor will now have. The rights of the new owner will not be subjected to any claims, counterclaims, defenses or set-offs that Lessee may have against Lessor. No assignment will be effective until Lessee has received written notice from the assignor of the name and address of the assignee. Lessee or Lessee's agent will maintain a written record of each assignment in form necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended."

3. **Section 18** of the Lease is hereby deleted and the following **Section 18** is hereby inserted in lieu thereof:

"18. **REPRESENTATIONS AND WARRANTIES.** Lessee warrants and represents as follows: (a) Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of Lessee's State with full power and authority to enter into this Lease and the transactions contemplated hereby and to perform all of Lessee's obligations hereunder; (b) Lessee has duly authorized the execution and delivery of this Lease by proper action by Lessee's governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Lease; (c) Lessee has complied with such public bidding requirements as are applicable to this Lease and the acquisition by Lessee of the Equipment; (d) all authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Lease or in connection with the carrying out of Lessee's obligations hereunder have been obtained; (e) this Lease constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally; (f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Rental Payments scheduled to come due during the current budget year and to meet Lessee's other obligations under this Lease during the current budget year, and those funds have not been expended for other purposes; (g) there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by this Lease or Lessor's interest in the Equipment; (h) the Equipment is new and is essential to Lessee's functions or to the services Lessee provides to Lessee's citizens, Lessee has an immediate need for the Equipment and expect to make immediate use of the Equipment, Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish in the foreseeable future, and the Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority and will not be used in the trade or business of any other entity or person; (i) Lessee has never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease purchase, installment sale or other similar agreement; (j) the execution and delivery of this Lease by Lessee will not cause Lessee to exceed the indebtedness limitations set forth in N.Y. Gen. Mun. Law § 109-b.6(c); and (k) *If Lessee is a City, County or School District*, the authorization for this Lease to finance the Equipment to be leased, acquired and financed under this Lease is not required by law to be subject to (1) a permissive or mandatory referendum, (2) a supermajority vote of Lessee's governing body or (3) if this Lease has a maturity not less than a specified minimum period, a referendum. *If Lessee is a Fire District*, the authorization for this Lease to finance the



NEW YORK ADDENDUM
004-0847233-103 DATED AS OF September 7, 2022

Equipment to be leased, acquired and financed under this Lease is required by law to be subject to a mandatory referendum. The necessary referendum has been approved by the voters of Town of Harrison in accordance with New York law.

4. **Section 19** of the Lease is hereby deleted and the following **Section 19** is hereby inserted in lieu thereof:

"19. NONAPPROPRIATION. This Lease shall be deemed executory only to the extent of monies appropriated and available for the purpose of this Lease, and no liability on account thereof shall be incurred by Lessee beyond the amount of such monies. This Lease is not Lessee's general obligation. Neither Lessee's full faith and credit nor Lessee's taxing power are pledged to the payment of any amount due or to become due under this Lease. It is understood that neither this Lease nor any representation of any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose this Lease.

Should Lessee fail to appropriate monies to pay Rental Payments under this Lease following the then current initial term or any renewal term, this Lease will be deemed terminated at the end of the then current initial term or renewal term, as applicable. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current term, but failure to give such notice will not extend the term beyond such term. If this Lease is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment to Lessor at the location or locations to be specified by Lessor."

Except as specifically set forth in this Addendum, all terms and conditions contained in the Lease will remain in full force and effect and are hereby ratified and confirmed.

Lessor: VGM Financial Services, a division of The
Huntington National Bank

By: _____

Title: _____

Lessee: Town of Harrison

By: _____

Rich Dionisio, Mayor



LEASE AGREEMENT (EQUIPMENT RENTAL)

This "Lease": Lease Agreement Number 004-0847233-103 Dated September 7, 2022	
"Lessee"	
Town of Harrison, 123 North Street, Harrison, NY 10528	
Fax:(914) 835-2789	E-mail:fp.allegretti@verizon.net
"Lessor"	
VGM Financial Services, a division of The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305	
Fax:319-833-4577	E-mail:customerservice@financediv.com

Number of Rental Payments	Rental Payments	Advances
54	A monthly payment of \$12,818.00(the "Standard Payment") is due each May, June, July, August, September and October until a total of 30 Standard Payments have been made. A payment of \$0.00 is due each November, December, January, February, March and April. The Term includes both the Standard Payment Months and the \$0 Payment Months and the advance payment. The first due date for a "Standard Payment" will be determined by Lessor based on the date it pays the Equipment supplier.	First:\$12,818.00 Last:\$0.00 Total:\$12,818.00
EQUIPMENT LOCATION & DESCRIPTION:		MAXIMUM HOURS:
123 North St, Harrison, NY 10528: (65) 2023 Club Car Tempo Lithium Golf Cars together with all attachments and accessories thereto		N/A

TERMS AND CONDITIONS --READ CAREFULLY BEFORE SIGNING

- RENTAL:** Lessor rents to Lessee and Lessee rents from Lessor the equipment, furniture, fixtures, machinery, inventory, goods and software, as such terms are defined under the Uniform Commercial Code ("UCC"), described above and in any schedule made a part hereof, together with all replacements, replacement parts, repairs, returns, substitutions, additions, accessories, and accessions incorporated therein or attached thereto (collectively, "Equipment"), upon the terms and conditions set forth herein. The parties intend this Lease to be governed by Article 2A of the UCC. Pursuant to Article 2A, Lessee is entitled to the promises and warranties, including those of any third party, provided to Lessor by the Equipment supplier. Lessee may contact the Equipment supplier and receive an accurate and complete statement of the promises and warranties, including any disclaimers and limitations of them or of remedies.
- PAYMENTS:** Other than as set forth in a rider hereto, rental payments are due monthly, beginning the date designated by Lessor and continuing on the same day of each month thereafter for the number of payments shown above. Lessor may change the payment by not more than 10% in the event of price changes, changed order, etc. Security deposit is refundable upon expiration of this Lease provided all terms and conditions of this Lease have been fulfilled. Security deposit and payments may be commingled and do not earn interest.
- EQUIPMENT ACCEPTANCE:** Lessee shall have accepted the Equipment for purposes of this Lease upon, at Lessor's option, either: (a) Lessee's verbal verification to Lessor that the Equipment has been delivered and is acceptable; or (b) Lessee's delivery of a signed delivery and acceptance certificate to Lessor. Lessee represents that any agent of Lessee who verifies delivery and acceptance of the Equipment, either verbally or in writing, has actual authority to do so. Upon Lessor's acceptance of this Lease, THIS LEASE SHALL BE NON-CANCELABLE, and Lessee's obligations hereunder shall not abate for any reason.
- DISCLAIMER OF WARRANTIES:** THE EQUIPMENT IS BEING RENTED IN "AS IS" CONDITION. LESSEE AGREES THAT LESSOR IS NOT THE MANUFACTURER OR SUPPLIER OF THE EQUIPMENT. LESSEE HAS SELECTED THE EQUIPMENT BASED UPON ITS OWN JUDGMENT AND ACKNOWLEDGES THAT LESSOR HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND, DIRECT OR INDIRECT, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, DESIGN, OPERATION OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, OR OTHERWISE. No broker, equipment supplier, or other person (other than an employee of Lessor) is an agent of Lessor.
- GOVERNING LAW; VENUE OF LITIGATION:** THIS LEASE, AND ALL MATTERS ARISING FROM THIS LEASE, INCLUDING ALL INTEREST AND FINANCE CHARGES HEREUNDER, SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW AND, TO THE EXTENT NOT PREEMPTED BY FEDERAL LAW, BUT THE LAWS OF THE STATE OF LESSEE'S ORGANIZATION (EXCLUDING CONFLICTS LAWS). TO THE EXENT PERMITTED BY LAW, LESSEE HEREBY WAIVES ITS RIGHT TO A JURY TRIAL. LESSOR OR ITS ASSIGNEE AT ITS SOLE DISCRETION MAY ENFORCE THIS LEASE IN ANY STATE OR FEDERAL COURT HAVING LAWFUL JURISDICTION THEREOF.
- SECURITY AGREEMENT:** In the event this Lease is determined to be governed by Article 9 of the UCC, Lessee hereby grants Lessor a security interest in all Equipment financed by or rented from Lessor, of any kind or nature whatsoever, wherever located, whether now owned or hereafter acquired, and all returns, reposessions, substitutions, replacement parts, accessories, and accessions thereto and thereof, and all proceeds thereof, to secure all present and future obligations of Lessee to Lessor, of every type and description and howsoever evidenced. This Lease shall be construed so that interest, the applicable interest rate and other charges shall not exceed that allowed by applicable law, and any payment that otherwise would be deemed unlawful will be applied first to prepay principal and then refunded to Lessee.

7. **APPOINTMENT OF ATTORNEY IN FACT:** Lessee authorizes Lessor, its successors and assigns to cause this Lease, or any other document(s) showing the interest of Lessor, including but not limited to UCC financing statements, to be authenticated and filed or recorded. In addition, Lessee appoints Lessor, its successors and assigns, as Lessee's attorney-in-fact (1) to arrange for property damage coverage under a policy of insurance and to transmit Lessee's premium payments to the insurer on behalf of Lessee, (2) to deal with and to direct any insurer as to any matter concerning the claim for, disposition of, and/or application of proceeds from any policy of insurance, and (3) to receive payments and execute and endorse all documents, checks, drafts, or other instruments necessary or advisable to secure payments due under any policy of insurance. Lessee authorizes Lessor to make non-substantive changes hereto, including but not limited to Lessee's legal name. These appointments and authorizations shall be continuous. Nothing in this paragraph shall relieve Lessee of its duty to procure required insurance, to make timely insurance claims, and to otherwise cooperate with insurance carriers and Lessor in seeking insurance coverage and recoveries.
8. **UNCONDITIONAL OBLIGATION:** Lessee agrees to be unconditionally obligated to pay all payments and other amounts due hereunder no matter what happens, even if the Equipment is damaged or destroyed, if it is defective, if Lessee no longer can use it, or if the manufacturer or supplier ceases doing business or cannot service and/or support the Equipment, and irrespective of any set-off, counterclaim, defense, or other right which Lessee may have against Lessor or any other person.
9. **USE:** Lessee agrees that the Equipment will be used for business purposes only and such use shall be in compliance with all applicable laws. Lessee shall maintain the Equipment in good repair and working order at Lessee's sole expense.
10. **TAXES:** Lessee agrees to pay all taxes, fees, and governmental charges related to this Lease, which during the term of this Lease or at any time thereafter may be imposed. If Lessor pays any of the above for Lessee, Lessee agrees to reimburse Lessor on demand, plus interest. Lessor shall not be obligated to contest any valuation of or tax imposed on the Equipment or this Lease.
11. **INDEMNITY:** To the extent permitted by law, Lessor is not responsible for any losses or injuries caused by the Equipment, and Lessee agrees to indemnify Lessor with respect to all claims for losses imposed on, incurred by, or asserted against Lessor, including attorneys' fees and expenses plus interest, where such claims in any way relate to the Equipment, whether or not caused in whole or in part by the negligence of Lessee. Further, Lessee shall, if requested by Lessor, defend Lessor against any claims for losses or injuries caused by the Equipment, including but not limited to any claim arising out of strict liability in tort. This provision shall survive the cancellation, termination or expiration of this Lease.
12. **INSURANCE:** Lessee shall keep the Equipment insured against loss for not less than its replacement cost or such greater amount as may be prescribed by any applicable state law specifying minimum insurance requirements, and shall carry public liability insurance, both personal injury and property damage. Lessee shall name Lessor as an additional insured and as loss payee. If Lessee fails to procure insurance, Lessor may obtain same and pay the amount due thereon. Lessee shall reimburse Lessor upon demand and, if required by Lessor, shall pay interest on such sums due and owing at a rate of up to 18% per annum, but in no event more than the maximum rate permitted by law. With respect to any policy obtained by Lessor, Lessor may charge a monthly administrative fee. Any insurance proceeds received with respect to the Equipment will be applied, at the option of Lessor, to repair, restore, or replace the Equipment, or to pay Lessor the remaining balance and any other amounts payable hereunder.
13. **LATE CHARGES:** If Lessee is delinquent in paying any sum due, Lessee shall pay a charge to offset collection expenses on such delinquent payment of \$25.00 or an amount of up to ten percent (10%) of the payment amount that is past due, whichever is greater, but in no event more than allowed by applicable law. In addition, Lessor will impose a surcharge of up to \$30 or the maximum allowed under applicable law for any dishonored payment.
14. **DEFAULT:** Any of the following constitute default: (1) Lessee fails to pay any sum due Lessor; (2) Lessee fails to observe or perform any other term of this Lease; (3) Lessee encumbers or disposes of the Equipment without Lessor's written consent; (4) The filing by or against Lessee or any guarantor of Lessee's obligations to Lessor ("Guarantor") of a petition under the Bankruptcy Code or any other insolvency law; (5) The voluntary or involuntary commencement of any formal or informal proceeding for dissolution, liquidation, settlement of claims against or winding up of Lessee's or a Guarantor's affairs, or Lessee or a Guarantor, if applicable, ceases doing business of going concern; (6) Any representation or warranty made by Lessee or a Guarantor in connection herewith proves to have been materially misleading; (7) Lessee is in default under any other contract or agreement with Lessor; (8) any Guarantor repudiates or attempts to revoke any guaranty of Lessee's obligations to Lessor related to this Lease.
15. **REMEDIES:** Upon an occurrence of default, Lessor may exercise one or more of the following remedies: (1) Declare due, sue for, and receive from Lessee the sum of all payments and other amounts then due and owing in the current fiscal year under this Lease or any schedule hereto, (2) Require Lessee to return the Equipment at its own expense to any reasonable location Lessor designates; (3) Cancel or terminate this Lease or any other agreement between Lessee and Lessor; (4) Charge Lessee interest on all monies due hereunder from and after the date of default at the rate of 18% per annum, compounded monthly until paid in full, but in no event more than the maximum rate permitted by law; (5) Charge Lessee for any other amounts provided for in this Lease. In addition, Lessor may use any other remedies available to it under applicable law. These remedies will be applied, to the extent allowed by law, cumulatively. No delay in exercising any right or remedy shall operate as a waiver of any right or remedy or modify the terms of this Lease. A waiver of default shall not be construed as a waiver of any other or subsequent default. In addition to all of Lessor's other rights and remedies, Lessee agrees to pay Lessor all costs and expenses, including attorneys' fees, incurred by Lessor in exercising or attempting to exercise any of its rights or remedies. If appropriate in the circumstances, remedies will include those available under Article 9 of the UCC.
16. **ASSIGNMENT:** Lessee may not sublet, lend, assign, or pledge this Lease, the Equipment, or any interest in either, or permit any lien or security interest thereon. Any and all of Lessor's interest and rights in the Equipment and under this Lease may be assigned, pledged, or otherwise disposed of, without notice to Lessee. Each assignee shall be entitled to exercise all rights and remedies of Lessor with respect to any and all obligations assigned to such assignee, and all references herein to "Lessor" shall include Lessor's assignee, except that said assignee shall not be chargeable with any obligations or liabilities of Lessor hereunder. Lessee will not assert against Lessor's assignee any defense, counterclaim or setoff on account of breach of warranty or otherwise in any action for payment or for possession brought by Lessor's assignee. Any assignment of this Lease by Lessee, whether or not permitted by Lessor, shall not release Lessee from its obligations hereunder.
17. **RETURN OF EQUIPMENT:** At the end of the original term of this Lease, or if this Lease is terminated under Section 19, Lessee must return the Equipment at its own expense, to Lessor or to a third-party designated by Lessor, and as applicable, the following must be true: All safety equipment must be in place and meet applicable federal, state and other governmental standards; All covers and guards must be in place with no sheet metal, plastic or cowl damage; All parts, pieces, components and optional equipment must be present, installed and operational; All accessories shall be returned in proper order; All motors shall operate smoothly without overheating and shall have good bearings and bushings;

All electronic controls shall operate per manufacturers' specifications; Controls which bypass normal operations shall be repaired at Lessee's expense; All electrical systems shall be able to provide electrical output as specified by the manufacturer; All batteries shall be in good, safe operating condition with no dead cells or cracked cases; Batteries shall hold a charge and provide adequate power to operate the Equipment; All Equipment shall have serviceable tires, with 50% remaining tread, retaining proper air pressure, and without repair patches; All oil and grease seals must contain lubrication in the manufacturer's designed reservoir; All Equipment must have a relatively clean appearance; All Equipment must be free from excessive wear necessitating major component repair or replacement caused by lack of recommended maintenance detailed in Equipment operation/maintenance manuals; All Equipment shall be free from structural damage or bent frames; Any usage or metering devices must not have been altered in any way; All Equipment attachments, if any, must be in good operating condition; All hydraulic cylinders must not be bent, nicked, gouged or leaking. If the Equipment is an electric golf car, then in addition to the above return provisions: (i) the golf car must be able to transport two (2) people and their golf clubs; (ii) all batteries and battery terminals must be clean, free of corrosion and have proper battery water levels; and (iii) each golf car must include operable battery chargers. Additionally, all Equipment must be able to complete the following tests: operate normally in forward and reverse directions through all its speed ranges or gears, steer normally right and left in both forward and reverse, have all functions and controls work in a normal manner, be able to stop with its service brakes in a safe distance in both forward and reverse, operate without leaking any fluids, perform its designed functions in a satisfactory manner, and all cutting units (if applicable) must be able to lower, turn on, run, raise and shut off as they are designed to do. If any Equipment is damaged or does not meet the standards set forth above for the return condition of such Equipment or if Lessee fails to discharge Lessee's obligations set forth under this Lease with regard to any Equipment, Lessee shall remit to Lessor, immediately upon demand, the Stipulated Loss Value of such Equipment. The "Stipulated Loss Value" for a particular piece of Equipment shall be an amount equal to: (i) the total of all monthly payments and other amounts, if any, due under the Lease with respect to such Equipment as of the date of payment of the Stipulated Loss Value, plus (ii) all rent not yet due for the Equipment for the remaining term of this Lease, discounted from their respective due dates at the rate of 3% per annum, plus (iii) the Equipment's "Anticipated Residual Value" as determined by Lessor's books as of the date of this Lease. Return Condition Standards applicable when the Equipment is Golf Cars. The Return Condition Standards for golf cars are as follows: (a) Equipment must start, stop, and turn properly; (b) Mechanically, all Equipment must be in operable condition upon return and capable of being driven onto a transporter; (c) Cosmetically, all Equipment and component parts are to be returned operable and complete according to the original state, reasonable wear and tear expected; (d) All equipment shall have serviceable tires, with 50% remaining tread, retaining proper air pressure, and without repair patches; (e) All gauges will be operative and all fluid levels to manufacturer's specifications; and, (f) if the Equipment is an electric golf car, then in addition to the other Return Condition Standards: (i) the golf car must be able to transport two (2) people and their golf clubs; (ii) all batteries and battery terminals must be clean, free of corrosion and have proper battery water levels; and, (iii) each golf car must include operable battery chargers. Any missing Equipment and parts or damage to the Equipment will result in a separate billing at replacement cost or fair market value. Failure to do so, and at Lessor's sole discretion, is a default under this Lease, and in all cases will result in automatic conversion of this Lease to a month-to-month rental agreement on the same terms. Conversion to a month-to-month rental agreement shall not operate to waive any of Lessor's rights herein.

18. **REPRESENTATIONS AND WARRANTIES:** Lessee represents and warrants to Lessor that as of the date hereof, and throughout the term of the Lease: (a) Lessee is a political subdivision of the state or commonwealth in which it is located and is organized and existing under the constitution and laws of such state or commonwealth; (b) Lessee has complied, and will comply, fully with all applicable laws, rules, ordinances, and regulations governing open meetings, public bidding and appropriations required in connection with the Lease, the performance of its obligations under the Lease and the acquisition and use of the Equipment; (c) the person(s) signing the Lease and any other documents required to be delivered in connection with the Lease (collectively, the "Documents") have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signatures, each of which are genuine; (d) the Documents are and will remain valid, legal and binding Leases, and are and will remain enforceable against Lessee in accordance with their terms; and (e) the Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of its authority and will be used during the term of the Lease only by Lessee and only to perform such function. Lessee further represents and warrants to Lessor that, as of the date each item of Equipment becomes subject to the Lease and any applicable schedule, it has funds available to pay all Lease payments payable thereunder until the end of Lessee's then current fiscal year, and, in this regard and upon Lessor's request, Lessee shall deliver in a form acceptable to Lessor a resolution enacted by Lessee's governing body, authorizing the appropriation of funds for the payment of Lessee's obligations under the Lease during Lessee's then current fiscal year.

19. **TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS:** To the extent permitted by applicable law, Lessee agrees to take all necessary and timely action during the Lease term to obtain and maintain funds appropriations sufficient to satisfy its payment obligations under the Lease (the "Obligations"), including, without limitation, providing for the Obligations in each budget submitted to obtain applicable appropriations, causing approval of such budget, and exhausting all available reviews and appeals if an appropriation sufficient to satisfy the Obligations is not made. Notwithstanding anything to the contrary provided in the Lease, if Lessee does not appropriate funds sufficient to make all payments due during any fiscal year under the Lease and Lessee does not otherwise have funds available to lawfully pay the Lease payments (a "Non-Appropriation Event"), and provided Lessee is not in default of any of Lessee's obligations under this Lease as of the effective date of such termination, Lessee may terminate this Lease effective as of the end of Lessee's last funded fiscal year ("Termination Date") without liability for future payments or the early termination charge under this Lease, if any, by giving at least 60 days' prior written notice of termination ("Termination Notice") to Lessor. If Lessee terminates the Lease prior to the expiration of the end of the original term of this Lease as permitted under the terms of this Lease or as set forth herein or in any schedule, Lessee shall (i) on or before the Termination Date, return the Equipment subject to the terminated Lease in accordance with the return requirements set forth in this Lease, (ii) provide in the Termination Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (iii) deliver to Lessor, upon request by Lessor, an opinion of Lessee's counsel (addressed to Lessor) verifying that the Non-Appropriation Event as set forth in the Termination Notice has occurred, and (iv) pay Lessor all sums payable to Lessor under this Lease up to and including the Termination Date. Lessee acknowledges and agrees that, in the event of the termination of this Lease and the return of the Equipment as provided for herein, Lessee shall have no interest whatsoever in the Equipment or proceeds thereof and Lessor shall be entitled to retain for its own account the proceeds resulting from any disposition or re-leasing of the Equipment along with any advance rentals, security deposits or other sums previously paid by Lessee pursuant to the terms of the Lease.

20. **DELIVERY OF CERTAIN DOCUMENTS AND RELATED REQUIREMENTS:** Lessee will execute or provide, as requested by Lessor, annual budget and financial information and such other documents and information, including an opinion of Lessee's counsel as to the validity

and enforceability of this Lease, as are reasonably necessary with respect to the transaction contemplated by this Lease. If Lessee is a "Registered Organization" (as such term is defined in the UCC), then Lessee will: (i) upon request of Lessor, provide copies of its applicable registered organization documents; and (ii) not change its legal name or its chief executive office or state of organization, without, in each case, giving Lessor at least 30 days' prior written notice of any such event.

21. EXCESS USAGE AND SUPPLEMENTAL RENTALS (APPLICABLE TO TURF CARE AND MAINTENANCE EQUIPMENT ONLY):

At the end of the original term of the Lease, Lessee shall remit to Lessor \$5.00 per hour on each piece of Equipment that has hourly use in excess of the maximum hours as indicated above. Lessee shall remit such amounts within ten (10) days of Lessor's written demand. The hours of use of a particular item of Equipment shall be determined by the hour meter attached to said Equipment, provided that such meter remains operable and accurate. If any such hour meter becomes inoperable or inaccurate, Lessee shall immediately repair or replace same, and shall immediately notify Lessor in writing of such event and of the correct hours of usage of such Equipment during the period of time the hour meter was inoperable or inaccurate. Lessee shall promptly furnish Lessor such information as Lessor may reasonably request from time to time in order to document the hours of usage of the Equipment. If this Lease terminates or is cancelled prior to the end of the original term of the Lease, then the Maximum Hours specified above shall be reduced pro rata based on the number of months remaining in the current year or original term of the Lease, as applicable.

22. LESSEE WAIVERS: To the extent permitted by law, Lessee waives all rights and remedies against Lessor provided by Article 2A or Article 9 of the UCC or other applicable law, including but not limited to any right which requires Lessor to sell, lease, or otherwise use any Equipment to reduce Lessor's damages or which may otherwise limit or modify any of Lessor's rights or remedies. Any action against Lessor for any default, including breach of warranty or indemnity, must be started within one (1) year after the event which caused it. Lessor will not be liable for specific performance of this Lease or for any losses, damages, delay, or failure to deliver the Equipment.

23. GENERAL: This Lease may, in Lessor's sole discretion, be delivered and/or reproduced by facsimile, optical scanning or other electronic means ("e-copy") and such e-copy or a printed version thereof shall be enforceable as an original and admissible as such in any court or other proceeding, provided that there shall be only one original of this Lease and it shall bear the original ink or electronic signature of Lessor and be marked "Original." Each party's electronic signature on this Lease shall be unconditionally valid and legally enforceable, and each party agrees not to contest the validity or enforceability of any electronic signature (or the authority of the electronic signer to sign). To the extent that this Lease constitutes chattel paper (as that term is defined by the Uniform Commercial Code), a security or ownership interest intended to be created through the transfer and possession of this Lease can be done only by the transfer of the "Original" bearing the original ink or electronic signature of Lessor; provided that, if the "Paper Out" process shall have occurred, or if there shall simultaneously exist both the "Paper Out" printed version and an electronic version of this Lease, then the "Paper Out" printed version of such document bearing the legend "Original" applied by Lessor shall constitute the sole chattel paper original and authoritative version. If Lessor permit Lessee to deliver this Lease or any related document to Lessor via facsimile or other electronic means, Lessee shall deliver to Lessor, promptly on request, such document bearing Lessee's electronic or "wet ink" signature; provided that neither delivery nor failure to deliver the document bearing Lessee's electronic or "wet ink" signature shall limit or modify the representations and agreements set forth above. This Lease shall inure to the benefit of and is binding upon the parties and their heirs, personal representatives, successors, and assigns. This Lease represents the entire agreement between the parties, superseding all prior or contemporaneous negotiations, discussions, understandings, or agreements pertaining to the subject matter hereof. This Lease shall not be modified without Lessor's written consent. If any provision of this Lease is deemed unenforceable, then such provision shall be deemed deleted and all other provisions of this Lease shall remain in full force and effect. Any written notice hereunder shall be deemed given when delivered personally, deposited with a nationally recognized overnight courier (with all fees pre-paid), delivered via facsimile or e-mail (with confirmation of transmission), or deposited in the United States mails, certified or registered mail, addressed to recipient at its address set forth above or such other address as may be substituted therefor by notice given pursuant to the terms hereof. Lessee hereby agrees that Lessor, including its vendors, service providers, partners, affiliates successors and assigns, may contact Lessee at any telephone number provided to Lessor, by placing voice telephone calls (including use of automatic telephone dialing systems or prerecorded voice messaging) or, in the case of wireless telephones or other wireless devices, by sending e-mail or automated (SMS) text messages. Lessee authorizes, and represents that all Lessee's principals have authorized, Lessor to obtain such credit bureau reports and make such other credit inquiries with respect to Lessee and such principals as Lessor deems appropriate throughout the term of this Lease. On written request, Lessor will identify any reporting agency used for such a report. Lessee agrees that Lessor may receive from and disclose to other persons, including credit reporting agencies and respective equipment vendors and suppliers, information about Lessee's accounts and credit experience. Lessee hereby authorizes any person to release to Lessor credit experience and account information relating to Lessee. Lessee shall execute and deliver to Lessor such other documents and provide such information, including information identifying the owners of Lessee and its affiliates and their respective ownership interests, as Lessor may reasonably deem necessary to comply with laws or regulations applicable to Lessor or Lessee, including laws and regulations requiring Lessor to obtain Lessee's certification of its beneficial owner(s) prior to making payment(s) to Lessee during or after the term of this Lease. Under federal law, Lessor must obtain, verify and record identifying information for each person opening an account. Lessor will ask for Lessee's name, address, date of birth and other identifying information. Lessor may also ask for Lessee's driver's license or other identifying documents. This Lease shall not be deemed terminated until Lessee has fulfilled all obligations herein. Time is of the essence for all purposes of this Lease. Wherever the name VGM Financial Services is used in the Agreement or any document relating to this Agreement, said name refers to VGM Financial Services, a division of The Huntington National Bank.

ADDITIONAL TERMS AND CONDITIONS

Lessee acknowledges having read the terms and conditions printed above, and unconditionally agrees to same. Lessee requests that Lessor countersign this Lease and requests and hereby authorizes Lessor to pay the Equipment vendor/manufacturer.

Lessor: VGM Financial Services, a division of The
Huntington National Bank

By: _____

Title: _____

Lessee: Town of Harrison

By: _____

Rich Dionisio, Mayor

THIS LEASE IS NOT BINDING UNTIL ACCEPTED BY LESSOR

OPINION OF COUNSEL

(To be on Attorney's Letterhead)

Date:

Lessee: Town of Harrison
123 North Street,
Harrison, NY 10528

Lessor: VGM Financial Services, a division of The Huntington National Bank
11100 Wayzata Blvd, Suite 700
Minnetonka, MN 55305

Re: Contract 004-0847233-103, dated as of September 7, 2022, by and between Town of Harrison and Lessor

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the contract described above (the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and exhibit thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of New York (the "State") duly organized, existing and operating under the Constitution and laws of the State. The full, true and correct legal name of Lessee is _____.

2. The Uniform Commercial Code, as adopted in the State (the "UCC"), and no other statute of the State, governs the creation, perfection, priority or enforcement of a security interest created by Lessee.

3. Lessee is authorized and has power under State law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.

4. The Lease and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.

5. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable State and Federal laws.

6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of the organization or existence of Lessee; the authority of its officers; the proper authorization, approval and execution of the Lease and the other documents described above; the appropriation of monies to make Rental Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

This opinion of counsel may be relied upon by Lessor and its successors and assigns.

Very truly yours,

RESOLUTION
LEASE NO. 004-0847233-103
DATED AS OF SEPTEMBER 7, 2022

A resolution authorizing the negotiation, execution, and delivery of Lease No. 004-0847233-103 dated September 7, 2022 (the "Lease"), between Town of Harrison, 123 North Street, Harrison, NY 10528 and VGM Financial Services, a division of The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305; and prescribing other details in connection therewith.

WHEREAS, Town of Harrison, (the "Lessee") is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of New York; and

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in the Lease is appropriate and necessary to the function and operations of the Lessee; and

WHEREAS, VGM Financial Services, a division of The Huntington National Bank, (the "Lessor") shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF Town of Harrison:

Section 1. The Lease, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the _____ of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee, with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of New York.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified and approved.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

CERTIFIED AS TRUE AND CORRECT this ____ day of _____, 20____.

Signature of Clerk, Secretary or Assistant Secretary

Printed Name of Clerk, Secretary or Assistant Secretary



CERTIFICATE OF INCUMBENCY
LEASE NO. 004-0847233-103
DATED AS OF September 7, 2022

I, _____, do hereby certify that I am the duly elected or appointed and acting Clerk/Secretary of Town of Harrison (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of New York, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate this _____ day of _____, 20____.

Signed: _____

Title: _____

NOTE: The Clerk or Secretary of the Lessee should sign unless that person is also the signor of the documents in which case the President or some other Officer of the Lessee should execute this document.



Invoice

Date of Invoice: 09/07/2022
Application Number: 476905
Contract Number: 004-0847233-103

To: Town of Harrison
123 North Street
Harrison, NY 10528

Advance Payments/Security Deposit

Description	Contract Payment	Sales/Use Tax	Other	Amount
First Payment in Advance	\$12,818.00	\$0.00		\$12,818.00
Last Payment in Advance	\$0.00	\$0.00		\$0.00
			\$0.00	\$0.00
Sub Total				\$12,818.00

Other Fees/Charges

Fee Description	Amount
Documentation Fee	\$300.00

Other Fees/Charges Sub Total **\$300.00**

Invoice Total Due

Invoice Total Due **\$13,118.00**

Remit Payment with 866-465-3149
Completed Documents to: OR
VGM Financial Services, a division of The
Huntington National Bank
11100 Wayzata Blvd, Suite 700
Minnetonka, MN 55305



Delivery and Acceptance

"Lessee"
Town of Harrison, 123 North Street, Harrison, NY 10528
"Lessor"
VGM Financial Services, a division of The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305

Delivery and Acceptance agreement attached to and made a part of Lease 004-0847233-103 dated September 7, 2022 (the "Lease").

This Certificate relates to the Equipment (the "Equipment") that is described in the Lease.

Pursuant to the Lease, Lessee acknowledges that Lessor has acquired the Equipment in connection with the Lease and Lessee has either received a copy of the purchase agreement with the vendor of the Equipment on or before signing the Lease or has approved such purchase. Lessee hereby represents, warrants and certifies that (i) all of the Equipment has been delivered to Lessee at the Equipment Location set forth in the Lease and has been installed, tested and inspected by Lessee or duly authorized representatives of Lessee, (ii) the Equipment Description set forth in the Lease is complete and correct, (iii) the Equipment, together with any supporting documentation, is exactly what Lessee ordered, is in good working order, is satisfactory in all respects and has been accepted by Lessee under the Lease as of the Acceptance Date set forth below, and (iv) there has been no adverse change in the business or financial condition of Lessee or any guarantor of the Lease since the day the most recent financial statement of Lessee or any guarantor was submitted to Lessor. If Lessee has made a deposit to the Equipment vendor(s), by signing this Certificate, Lessee hereby transfers all of Lessee's right, title and interest in and to the Equipment to Lessor, except to the extent set forth in the Lease, whether or not Lessee has been reimbursed for the deposit(s).

IMPORTANT: LESSEE SHOULD SIGN THIS CERTIFICATE ONLY AFTER LESSEE HAS RECEIVED AND IS COMPLETELY SATISFIED WITH THE EQUIPMENT. BY SIGNING THIS CERTIFICATE, LESSEE (1) IS IRREVOCABLY ACCEPTING THE EQUIPMENT, (2) BECOMES ABSOLUTELY AND IRREVOCABLY OBLIGATED TO LESSOR UNDER THE LEASE, AND (3) MAY NOT THEREAFTER REJECT THE EQUIPMENT, CANCEL OR TERMINATE THE LEASE OR DENY ANY STATEMENT MADE IN THIS CERTIFICATE, FOR ANY REASON WHATSOEVER

Acceptance Date: _____

Lessee: Town of Harrison

By: _____ Title: _____

Printed Name: _____

Please Complete and return this document by Fax to 800-741-8079 upon delivery and acceptance of the financed Equipment.



CLUB CAR, LLC.

P.O. Box 204658
Augusta, Ga 30917-4658

GOLF CAR MAINTENANCE AGREEMENT

between

Lessee: Town of Harrison

Address: 123 North Street, Harrison, NY 10528

and

CLUB CAR, LLC.

- 1.) Pursuant to this Golf Car Maintenance Agreement (the "Agreement") CLUB CAR, LLC. ("CLUB CAR") agrees to provide maintenance and related services, as provided herein (the "Services"), for golf cars ("EQUIPMENT") for the Lessee named above ("LESSEE") for the period from May 2023 to October 2027 (the "Maintenance Term"). The EQUIPMENT to be maintained is further described in Exhibit "A" attached hereto and only that EQUIPMENT is covered by this Agreement. The regular fee for such Services provided by CLUB CAR pursuant to this Agreement will be included in the purchase price of the Equipment to be paid by the finance company financing the Equipment for Lessee ("FINANCE COMPANY"), pursuant to a separate agreement between FINANCE COMPANY and CLUB CAR. LESSEE's financing costs with FINANCE COMPANY will include the fee for maintenance Services under this Agreement. Any additional costs or expenses related to the Services will be invoiced by CLUB CAR directly to LESSEE.
- 2.) CLUB CAR and/or its contractor at its expense and at reasonable intervals shall cause an authorized mechanic to perform non-routine maintenance on, and any necessary major repairs to, the EQUIPMENT and shall have the right to remove affected items of EQUIPMENT from LESSEE's premises in order to provide such maintenance and repairs. In the event of such removal, CLUB CAR shall cause such item(s) to be returned to LESSEE as expeditiously as reasonably possible. All such work shall be performed in a good workmanlike fashion.
- 3.) LESSEE agrees to perform all maintenance on the EQUIPMENT, other than that specified below to be performed by CLUB CAR and/or its contractor, and to accomplish same in a good workmanlike fashion. LESSEE agrees at its expense to employ competent trained personnel to provide routine and preventative maintenance on the EQUIPMENT and to follow all instructions contained in CLUB CAR, LLC.'s Owner's Manuals and Maintenance and Service Manuals concerning the operation and maintenance of the EQUIPMENT. LESSEE agrees that any damage caused by negligence or abuse by operators of the EQUIPMENT or negligence in the preventative maintenance and any damage resulting from non-compliance with CLUB CAR's Manuals stated above are the sole responsibility of the LESSEE. LESSEE is responsible for providing electricity and the cost of same for charging (electric EQUIPMENT) and/or gasoline and oil (gasoline EQUIPMENT).
- 4.) CLUB CAR and/or its contractor and LESSEE specifically assume the following responsibilities:

MAINTENANCE SCHEDULE – LESSEE

- A. Daily - Remove trash from bagwell, floorboard, dash and drink well;
Maintain proper tire pressure;
Keep EQUIPMENT clean and wipe with damp cloth;
Visually inspect EQUIPMENT for damage;
Change or repair flat tires;
Charge batteries (electric EQUIPMENT) to proper levels and/or fill gas tanks (gasoline EQUIPMENT) to proper levels;
Check brakes for proper working order;
Check reverse warning buzzer for proper operation;
Insure that all warning and instruction labels are on EQUIPMENT and in good condition;
Check EQUIPMENT for proper and safe operation;
Check drive unit (electric EQUIPMENT) for leaks;
Check drive unit, transmission, engine, and fuel system (gasoline EQUIPMENT) for leaks;
And,
Check charger plug and receptacle (electric EQUIPMENT) for damage and snug fit.
- B. Weekly - Wash exterior of EQUIPMENT including seats and bagwell;
Check water level in battery(ies) and fill if necessary;
Check battery(ies) and remove dirt, grime, and corrosion from terminals;
Check battery terminals and wiring for tight connections and any frayed wires;
and,
Check oil level (gasoline EQUIPMENT) and add as needed.

MAINTENANCE SCHEDULE – CLUB CAR AND/OR ITS CONTRACTOR

- A. As Required - Provide major maintenance;
Major maintenance, repairs and adjustments to brake system;
Repairs to seats, trim and mats due to normal wear and tear;
Replacement of tires as needed;
Replacement of electrical parts;
Replacement of mechanical parts;
Maintenance and repairs to suspension system;
Greasing of front suspensions;
Repairs to and/or replacement of differential assemblies; and,
Service on a systematic and timely basis as agreed to by both parties.

If electrical powered EQUIPMENT:

Repairs to chargers;
Replacement of batteries; and
Repairs to and/or replacement of motors.

If gasoline powered EQUIPMENT:

Repairs to and/or replacement of engines;
Repairs to and/or replacement of clutch systems;
Repairs to and/or replacement of carburetors;
Replacement of batteries;
Replacement of filters; and,
Repairs to and/or replacement of transmissions.

- 5.) LESSEE agrees to report to CLUB CAR and/or its contractor any malfunction of EQUIPMENT, identifying serial numbers and nature of complaints. LESSEE also agrees to report any damage, accidents, wrecks or vandalism to CLUB CAR and/or its contractor within twenty-four (24) hours of discovery.
- 6.) This Agreement shall terminate upon the expiration of the Maintenance Term.
- 7.) SPECIAL STIPULATIONS: _____

- 8.) This Agreement may be terminated by CLUB CAR at any time for non-payment by LESSEE of additional costs and expenses payable by LESSEE.
- 9.) This Agreement shall be construed in accordance with the laws of the State of Georgia.

Dated at Augusta, Georgia this _____ day of _____

LESSEE: Town of Harrison

CLUB CAR, LLC.

BY: _____

BY: _____

As Its: _____

As Its: _____

Print Name: _____

Print Name: _____

Exhibit A

Description and Location of Equipment, Personal Property, Services, and/or Software (the "Collateral") that is being financed pursuant to the Contract:

Description (including features)	Location
(65) 2023 Club Car Tempo Lithium Golf Cars together with all attachments and accessories thereto	123 North St, Harrison, NY 10528

Lessee: Town of Harrison

Club Car, LLC

By: _____

Rich Dionisio, Mayor

By: _____
Signature

Print Name & Title