



## INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** ("Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County" or "Lessee"), and **Masek Rocky Mountain Golf Cars**, a Delaware corporation ("Distributor") and **Yamaha Motor Finance Corporation, U.S.A.**, a Delaware corporation ("Lessor"), collectively (the "Parties"), to be effective for all purposes November 13, 2024 ("Effective Date").

**WHEREAS**, the County Purchasing Officer determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services and Equipment, and County issued Request for Proposals No. 24-06 ("RFP") on May 25, 2023, requesting proposals for Golf Cars Lease, as described in the RFP; and

**WHEREAS**, Distributor timely responded to the RFP by submitting a response dated June 11, 2023 ("Distributor's Response"); and

**WHEREAS**, based on the evaluation factors set out in the RFP, Distributor was the successful Offeror for the services listed in the RFP; and

**WHEREAS**, the County Council approved this Agreement at a public meeting held November 12, 2024; and

**WHEREAS**, Distributor and Lessor shall provide the Services and Equipment, respectively, as described below, to County.

**NOW, THEREFORE**, in consideration of the premises and the covenants contained herein, County and Distributor and Lessor agree as follows:

### **SECTION A. SERVICES AND EQUIPMENT:**

1. **EQUIPMENT.** Lessor shall lease to County sixty (60) new, current, or past model year Yamaha Drive 2 AC battery electric, Roy Pow lithium powered golf cars, two (2) utility Yamaha Umax II gas powered cars, and one hundred twenty (120) sand and seed bottles (2 per golf car); referred to herein as the ("Equipment").

The Umax II golf cars shall be painted Evergreen metallic, come equipped with headlights and taillights, 402cc electronic fuel injected engine, four-wheel drum brakes, two-inch receiver hitch, dump beds, roof and windshield.

The Yamaha Drive 2 AC lithium golf cars shall be in moonstone metallic paint, and shall include the following appurtenances and accessories for each lithium powered golf car:

- a. Split Windshield with fold down function on each golf car;
- b. Four (4) Standard/stock wheels and tires with wheel covers;
- c. Two (2) fleet decal numbers on each golf car;
- d. One (1) mounted club/ball washer on each golf car, mounted on passenger side;
- e. One (1) removable cooler, with slide mount, mounted on drivers' side, on each golf car;

- f. One (1) information "Windshield Mounted Message Holder" card holder mounted on each golf car;
- g. One (1) score card holder mounted on the steering wheel.
- h. Sweater basket on each golf car;
- i. Fender Scuff Guard;
- j. Two (2) mounted sand and seed bottle holders on each golf car;
- k. Two (2) sand and seed bottles per car;
- l. Two (2) USB ports on each golf car, to provide the ability for driver and passenger to each access one (1) port;
- m. Rain-drain top;
- n. Club rain canopy;
- o. County logo applied to each golf car, in center of club rain canopy;
- p. One (1) Yamatrack GPS Unit with 10" screen per golf car, properly installed in each Yamaha Drive 2 AC lithium golf car;
- q. One (1) functional battery management system for each Yamaha Drive 2 AC lithium golf car, which shall include a battery charger;
- r. One (1) functional charger for each Yamatrack GPS unit, if not charged by onboard power from the golf car.

## **2. DELIVERY**

Distributor shall deliver the Equipment to County, between February 1, 2025, and April 14, 2025. Delivery shall be made to the Los Alamos County Golf Course located at 4250 Diamond Drive, Los Alamos, New Mexico 87544. Distributor shall make arrangements to deliver the Equipment with County's Contractor Manager or designee four (4) weeks in advance of delivery for a delivery date within the above stated delivery window.

## **3. COUNTY ACCEPTANCE OF EQUIPMENT.**

County shall inspect the Equipment upon delivery by Distributor, Distributor shall address any issues identified by County, providing replacement car(s) as necessary or addressing any deficiencies in the delivered Equipment within two (2) weeks of the delivery date. Any Equipment not identified by County as deficient within the aforementioned time frame shall be deemed accepted fifteen (15) business days after delivery thereof. Lessor shall issue the initial monthly rental invoice upon acceptance of the Equipment by County.

## **4. SERVICES**

Distributor shall provide: (i) the delivery services set forth in Section 2, (ii) the training services set forth in Section 5, (iii) warranty repair services for manufacturing or design defects covered by the manufacturer's warranty set forth in Exhibit "B", and (iv) support to County within seven (7) business days of receipt of a service request from County related to (i) – (iii) (collectively, "Services"). Service requests shall be submitted through Email to Distributor's service representatives. County staff may schedule a service appointment as needed and shall be assigned an appointment on the service technician's schedule.

- a. Equipment and its components are covered by the Manufacturer Warranty as described in Exhibit B, attached hereto and made a part hereof for all purposes.
- b. Distributor through its service technicians shall perform on-site service, and Distributor shall provide a replacement unit, should a repair require that a piece of Equipment is placed out of service.
- c. Distributor shall provide to County an annual on-site inspection of the Equipment, on a schedule mutually agreed upon by the Parties, to correct any problems identified with the Equipment, throughout the term of this Agreement.

- d. Distributor shall supply any parts which are not covered under Warranty at a twenty percent (20%) discount from list price. Parts can be ordered by email, or phone call.

## **5. TRAINING**

Distributor shall provide on-site training to County by a Yamaha certified mechanic at the time of delivery of the Equipment. Distributor shall also offer training in either February or March of each year throughout the term of this Agreement at Distributors location, at a time mutually agreed upon by the Parties. Distributor shall provide notice to County of the training date by January 1 of each year throughout the term of this Agreement. County shall advise the number of County attendees by January 15 of each year of the term of this Agreement.

**SECTION B. TERM:** The term of this Agreement shall commence November 13, 2024, and shall continue through November 12, 2029, with County's sole option to renew for two (2) successive one (1) year periods, unless sooner terminated, as provided herein.

## **SECTION C. COMPENSATION:**

1. **Amount of Compensation.** The total amount payable under this Agreement for lease of the Equipment and performance of the Services identified herein shall be in accordance with rates identified in Exhibit "A," and shall be payable according to the terms set forth below. The total amount payable hereunder for the entire term of this Agreement, including any possible extensions and the amounts set forth below in subparagraphs a. and b., shall not to exceed EIGHT HUNDRED NINETEEN THOUSAND TWO HUNDRED THIRTY-NINE AND 08/100 DOLLARS (\$819,239.08), which amount does not include applicable New Mexico gross receipts taxes ("NMGR"). Lessor and Distributor, respectively, shall invoice the County for lease of the Equipment and for parts and Services set for in Exhibit "A" as follows:

- a. Equipment Lease: County shall pay compensation to Lessor (herein referred to as "Rent") for lease of the Equipment in a total amount not to exceed EIGHT HUNDRED TWELVE THOUSAND TWO HUNDRED THIRTY-NINE AND 08/100 DOLLARS (\$812,239.08), over the Term of this Agreement.
- b. Parts Purchases: County shall pay compensation to Distributor for parts in a total not-to-exceed amount of SEVEN THOUSAND DOLLARS (\$7,000.00). Parts purchases shall be billed and invoiced as delivered.

## **2. Monthly Invoices.**

- a. Lessor shall submit itemized invoices to County's Project Manager showing amount of compensation due, amount of any NMGR, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice.
- b. Distributor shall submit itemized invoices to County's Project Manager showing amount of compensation due, amount of any NMGR, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice

**SECTION D. TAXES:** Lessor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGR levied on the amounts payable under this Agreement. County shall cooperate with Lessor in all reasonable respects necessary in order for Lessor to qualify for any exemption or exclusion from personal property tax on the equipment. In the event that another tax becomes payable by Lessor as required by applicable law during the Term of this Agreement, County shall pay to Lessor as additional rent, promptly on receipt of Lessor's invoice therefore,

an amount equal to such tax. County shall collect and remit any and all sales, use, and other taxes payable in any state, county, or city in respect of the rental or other use of the Equipment by County.

**SECTION E. DELIVERY AND DAMAGES:** Distributor shall deliver the Equipment to County no later than April 14, 2025. The time for delivery of the Equipment is of the essence to this Agreement. Should Distributor neglect, refuse or fail to deliver the Equipment within the time herein agreed then County shall have the right to terminate this Agreement at the option of County. If County chooses to terminate this Agreement as provided herein, County reserves the right to pursue any and all other remedies at law or in equity for Distributor's failure to comply with the terms and conditions of this Agreement.

**SECTION F. RETURN OF LEASED PROPERTY TO DISTRIBUTOR:** Upon the termination of this Agreement, for any reason, Distributor, or its agent, shall, at County's convenience, take possession of the Equipment. The Equipment will be made available for pick up at a location to be identified by County. All expenses of taking possession of the Equipment shall be at the sole expense of Distributor. Failure to remove Equipment at the specified time and place may, at County's option, result in Distributor incurring fees due to County for storage.

**SECTION G. MANUFACTURER'S WARRANTY:** The Equipment is warranted only in accordance with the manufacturer's warranty, as detailed in Exhibit B. EXCEPT AS EXPRESSLY PROVIDED IN SECTION H OF THIS AGREEMENT AND EXHIBIT B, DISTRIBUTOR AND LESSOR DISCLAIM ANY OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INTERFERENCE.

**SECTION H. WARRANTY:** Distributor and Lessor warrant to County that, Distributor, Lessor, nor any of their assignees, shall disturb County's quiet and peaceful possession of the Equipment and County's unrestricted use thereof for its intended purpose, so long as County is not in default of any of the provisions of this Agreement.

**SECTION I. CARE, USE AND MAINTENANCE:** County shall, at its expense, at all times during the Term of this Agreement, keep the Equipment clean, serviced, and maintained in good operating order, repair, condition, and appearance in accordance with Distributor's manuals and other instructions received from Distributor. County will not use or operate the Equipment, or knowingly permit the Equipment to be used or operated, in violation of any law, ordinance or governmental regulations. The Equipment will be used and operated only as golf cars. County shall safely store the Equipment when not in use and properly secure it at night and such other times when the golf course on which the Equipment is used is closed to play, and County shall be solely responsible for such storage and safekeeping.

**SECTION J. ACCEPTANCE GUIDELINES FOR RETURN OF LEASE EQUIPMENT:** Equipment returned with "Normal Wear and Tear" will be acceptable. "Normal Wear and Tear" will not include:

1. Tires which are damaged, gouged, or cut so as to be in unsafe operating condition.
2. Missing tire(s) or wheel(s), including spare if originally included.
3. Bent, twisted, dented, dinged, or gouged bumper(s).

4. Any missing part(s) or accessory(s) that were originally delivered with the Equipment or any components to County as either factory-installed or dealer-installed optional accessories requiring any modifications for installation.
5. Mechanical problems on any components or suspension which occur due to abuse, accident, negligence or the lack of proper maintenance, or any repairs required which are not considered "Normal Wear and Tear."

**SECTION K. STATUS OF DISTRIBUTOR, LESSOR, STAFF, AND PERSONNEL:** This Agreement calls for the performance of Services by Distributor as an independent Distributor. Neither Distributor nor Lessor is an agent or employee of County and shall not be considered an employee of County for any purpose. Distributor, Lessor, its agents, or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Distributor, Lessor, nor any employee of Distributor or Lessor shall be entitled to any benefits or compensation other than the compensation specified herein. Neither Distributor nor Lessor shall have any authority to bind County to any agreement, contract, duty, or obligation. Neither Distributor nor Lessor shall make any representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Distributor and Lessor shall have full power to continue any outside employment or business, to employ and discharge their employees or associates as they deem appropriate without interference from County; provided, however, that Distributor and Lessor shall at all times during the term of this Agreement maintain the ability to perform their respective obligations in a professional, timely, and reliable manner.

**SECTION L. STANDARD OF PERFORMANCE:** Distributor and Lessor agree and represent that they have and shall maintain the personnel, experience, and knowledge necessary to qualify them for their respective duties to be performed under this Agreement. Distributor and Lessor shall perform their respective duties described herein in accordance with a standard that meets the industry standard of care for performance of such duties.

**SECTION M. DELIVERABLES AND USE OF DOCUMENTS:** All non-Equipment deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Neither Distributor nor Lessor shall use, sell, disclose, or obtain any other compensation for such works for hire. In addition, neither Distributor nor Lessor may, with regard to all non-Equipment work, work product, deliverables, or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent, or other property right, and acknowledges that any such property right created or developed remains the exclusive right of County. Neither Distributor nor Lessor shall use non-Equipment deliverables in any manner for any other purpose without the express written consent of County.

**SECTION N. EMPLOYEES AND SUB-CONTRACTORS:** Distributor and Lessor shall be solely responsible for payment of wages, salary, or benefits to any and all employees or contractors retained by Distributor and Lessor in the performance of their respective duties hereunder. Distributor and Lessor agree to indemnify, defend, and hold harmless County for any and all claims that may arise from Distributor's and Lessor's relationship to its employees and subcontractors.

**SECTION O. INSURANCE:** Distributor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Distributor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services, and Distributor shall not provide any Services under this Agreement unless and until Distributor has met the requirements of this Section. County requires Certificates of Insurance, or other evidence acceptable to County, stating that Distributor have met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice shall be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Distributor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Distributor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.

**SECTION P. RECORDS:** Distributor and Lessor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Distributor and Lessor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

**SECTION Q. DUTY TO ABIDE:** Distributor and Lessor shall abide by all applicable federal, state, and local laws, regulations, and policies and shall perform their respective duties hereunder in accordance with all applicable laws, regulations, and policies during the term of this Agreement.

**SECTION R. NON-DISCRIMINATION:** During the term of this Agreement, Distributor and Lessor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Distributor or Lessor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability, or veteran status.

**SECTION S. CHOICE OF LAW:** The interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

**SECTION T. VENUE, FORUM NON-CONVENIENS, EXCLUSIVE STATE JURISDICTION:** County, Distributor and Lessor knowingly, voluntarily, intentionally, and irrevocably agree that any and all legal proceedings related to this Agreement, or to any rights or any relationship between the parties arising therefrom, shall be solely and exclusively initiated, filed, tried, and maintained in the First Judicial District Court of the State of New Mexico. County, Distributor and Lessor each expressly and irrevocably waive any right otherwise provided by any applicable law to remove the matter to any other state or federal venue, consents to the jurisdiction of the First Judicial District Court of the State of New Mexico in any such legal proceeding, waives any objection it may have to the laying of the jurisdiction of any such legal proceeding. County, Distributor and Lessor also

agree that this term is a material inducement for each to enter this Agreement, and that County, Distributor and Lessor warrant and represent that each have had the opportunity to review this term with legal counsel.

**SECTION U. WAIVER OF JURY TRIAL:** In the event of any action or proceeding, (including without limitation, any claim, counterclaim, cross-claim or third party claim) arising out of or, relating to this Agreement, or the transaction contemplated by this Agreement, County, Distributor and Lessor KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL, and agree that a court shall determine and adjudicate all issues of law and fact with a jury trial being expressly waived. County, Distributor and Lessor also agree that this waiver of a jury trial was a material inducement for each to enter this Agreement, and that County, Distributor and Lessor warrant and represent that each have had the opportunity to review this jury waiver with legal counsel.

**SECTION V. INDEMNITY:** Distributor shall indemnify, defend, and hold harmless County, its Council members, employees, agents, and representatives, from and against all liability, claims, demands, actions (legal or equitable), damages, losses, costs, or expenses, including attorney fees, of any kind or nature, to the extent that the liability, claims, demands, actions, damages, losses, costs, and expenses are caused by, or arise out of, the acts or omissions of the Distributor or Distributor's officers, employees, agents representatives, and subcontractors in the performance or breach of the services under this Agreement.

**SECTION W. FORCE MAJEURE:** Neither County, Distributor nor Lessor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**SECTION X. NON-ASSIGNMENT:** No Party may assign this Agreement or any privileges or obligations herein without the prior written consent of the other Parties.

**SECTION Y. LICENSES:** Distributor and Lessor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Distributor shall require and shall assure that all of Distributor's employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses to perform the Services.

**SECTION Z. PROHIBITED INTERESTS:** Distributor and Lessor agree that they presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of their respective duties hereunder. Distributor and Lessor further agree that they shall not employ any person having such an interest to perform their respective duties under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept, or agree to accept, a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

**SECTION AA. TERMINATION:**

- 1. Generally.** The County Manager may terminate this Agreement with cause upon thirty (30) calendar days prior written notice to Distributor and Lessor. Upon such termination, Lessor and Distributor shall be paid for Rent owed and Services actually completed to the satisfaction of County at the rate set out in Section C. Distributor and Lessor shall render a final report of

the Services performed and Rent owed to the date of termination, and shall turn over to County originals of all materials prepared pursuant to this Agreement.

- 2. Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Distributor and Lessor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

**SECTION AB. NOTICE:** Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:

Katherine Hudspeth, Recreation Superintendent  
Incorporated County of Los Alamos  
2760 Canyon Road  
Los Alamos, New Mexico 87544

Distributor:

Jason Masek, President  
Masek Rocky Mountain Golf Cars  
5225 Pino Avenue, N.E.  
Albuquerque, New Mexico 87109

With a copy to:

County Attorney's Office  
1000 Central Avenue, Suite 340  
Los Alamos, New Mexico 87544

Lessor:

Yamaha Motor Finance Corporation, U.S.A.  
6555 Katella Avenue  
Cypress, California 90630  
Attn: Commercial Finance

**SECTION AC. INVALIDITY OF PRIOR AGREEMENTS:** This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the Parties with reference to the services described herein, and expresses the entire agreement and understanding between the Parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by authorized representatives of County, Distributor and Lessor. In the event of any conflict between the terms, conditions, and provisions of this Agreement, and the terms, conditions and provisions of any exhibits or attachments, the terms, conditions and provisions of this Agreement shall control and take precedence.

**SECTION AD. NO IMPLIED WAIVERS:** The failure of the Parties to enforce any provision of this Agreement is not a waiver by the Parties of the provisions, or of the right thereafter, to enforce any provision(s).

**SECTION AE. SEVERABILITY:** If any provision of this Agreement is held to be unenforceable for any reason: (i) such provision shall be reformed only to the extent necessary to make the intent of the language and purpose of the Agreement enforceable; and (ii) all other provisions of this Agreement shall remain in effect so long as the substantive purpose of the Agreement is possible.

**SECTION AF. CAMPAIGN CONTRIBUTION DISCLOSURE FORM:** A Campaign Contribution Disclosure Form was submitted as part of the Distributor's Response and is incorporated herein by reference for all purposes.

**SECTION AG. LEGAL RECOGNITION OF ELECTRONIC SIGNATURES:** Pursuant to NMSA 1978 § 14-16-7, this Agreement may be signed by electronic signature.



**SECTION AH. DUPLICATE ORIGINAL DOCUMENTS:** This document may be executed in two (2) counterparts, each of which shall be deemed an original.

**SECTION AI.** Notwithstanding any contrary provision contained in this Agreement, the Parties further agree as follows:

1. Title. Title to the Equipment shall at all times remain with the Lessor. County acquires only the interests expressly described in this Agreement. County shall not remove, move, or cover over in any manner any serial number on the Equipment. Except as provided herein, County shall keep all Equipment free from any marking or labeling which might be interpreted as a claim of ownership thereof by County or any party other than Lessor or anyone so claiming through Lessor.
2. Alterations and Attachments. County may, with Lessor's prior written consent, make such cosmetic modifications to the Equipment as County may deem desirable in the conduct of its business; provided, however, that such alterations shall not diminish the value or utility of the Equipment, or cause the loss of any warranty thereon or any certification necessary for the maintenance thereof; and provided, further, that such modification shall be removable without causing damage to the Equipment. Upon termination of this Agreement, County shall remove such modifications which have been made and shall restore the Equipment to its original condition, normal wear and tear and depreciation excepted.
3. County Default. The occurrence of any one or more of the following events shall constitute a default under this Agreement ("County Default"):
  - a. Nonpayment by County of Rent or any other sum payable by its due date;
  - b. Failure by County to perform or observe any other term, covenant or condition of this Agreement which is not cured within thirty (30) calendar days after notice thereof from Lessor;
  - c. Insolvency by County; or
  - d. Any untrue representation or warranty made by County in this Agreement.
4. Lessor or Distributor Default. The occurrence of any one or more of the following events shall constitute a default under this Agreement ("Lessor/Distributor Default"):
  - a. Failure of Lessor or Distributor to perform or observe any other term, covenant, condition, or obligation of this Agreement which is not cured within thirty (30) calendar days after notice thereof from County;
  - b. Insolvency by Lessor or Distributor; or
  - c. Any untrue representation or warranty made by Lessor or Distributor in this Agreement.
5. Remedies. If a Default occurs, the non-defaulting party may do one or more of the following:
  - a. Cancel or terminate this Agreement; or
  - b. Exercise any other right or remedy available to Lessor at law or in equity.

**SECTION AJ. NEGOTIATED TERMS:** This Agreement reflects negotiated terms between the Parties, and each Party has participated in the preparation of this Agreement with the opportunity to be represented by counsel, such that neither Party shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

\_\_\_\_\_  
**NAOMI D. MAESTAS**  
**COUNTY CLERK**

BY: \_\_\_\_\_  
**ANNE W. LAURENT** **DATE**  
**COUNTY MANAGER**

**Approved as to form:**

\_\_\_\_\_  
**J. ALVIN LEAPHART**  
**COUNTY ATTORNEY**

**MASEK ROCKY MOUNTAIN GOLF CARS, A DELAWARE CORPORATION**

BY: \_\_\_\_\_  
**JASON MASEK** **DATE**  
**PRESIDENT**

**YAMAHA MOTOR FINANCE CORPORATION, U.S.A., A DELAWARE CORPORATION**

BY: \_\_\_\_\_  
**BRETT MILLER** **DATE**  
**VICE PRESIDENT**

Exhibit A  
Compensation Rate Schedule  
AGR24-06

Lessor owns and shall lease to County the following golf cars at the following rates:

Yamaha Drive 2 AC battery electric, lithium powered golf cars with functional battery management systems for each golf car at \$1,369.57/unit for years 1 through 5 = \$82,174.20 per year (\$6,847.85 per month for 60 golf cars). Total not to exceed amount of \$410,871.00 for years 1 through 5.

Yamaha Drive 2 AC battery electric, lithium powered golf cars with functional battery management systems for each golf car at \$1,100.00/unit for years 6 and 7 = \$66,000.00 per year (\$5,500.00 per month for 60 golf cars). Total of \$132,000.00 for years 6 and 7.

60 Yamatrack 10-Inch GPS Units (1 for each Yamaha Drive 2 AC Golf Car) at \$543.00/unit for years 1 through 7 = \$32,580.00 per year (\$2,715.00 per month for 60 GPS units). Total not to exceed amount of \$228,060.00 for years 1 through 7.

60 Rain Canopies, one (1) for each of the lithium powered golf cars at a total of \$148.37 per month for years 1 through 7 = \$1,780.44 per year. Total not to exceed amount of \$12,463.08 for year 1 through 7.

2 utility Umax II golf cars not to exceed amount of \$2,164.50/unit for years 1 through 5 = \$4,329.00 per year (\$360.75 per month for 2 utility cars). Total not to exceed amount of \$21,645.00 for years 1 through 5.

2 utility Umax II golf cars not to exceed amount of \$1,800.00/unit for years 6 and 7 = \$3,600.00 per year (\$300.00 per month for 2 utility cars). Total not to exceed amount of \$7,200.00 for years 6 and 7.

**Summary of Monthly Payments.** The above figures result in the following monthly payments for years 1 through 5 and years 6 and 7 respectively:

12 Monthly Payments of \$10,071.97 for years 1 through 5, Total = not to exceed amount \$120,863.64 per year, for 60 lithium powered cars with rain canopies, GPS, and 2 utility cars.

12 Monthly Payments of \$8,663.37 for years 6 and 7, Total = not to exceed amount \$103,960.44 per year for 60 lithium powered cars with rain canopies, GPS, and 2 utility cars.

**TOTAL LEASE AMOUNT FOR THE SEVEN (7) YEAR TERM = NOT TO EXCEED \$812,239.08, which does not include NMGR.**

**Distributor shall provide County parts not covered by the Warranty at a discount of twenty percent (20%) off current list rates.**

**TOTAL part purchases over the seven (7) year term shall not exceed \$7,000.00.**

**TOTAL NOT TO EXCEED AMOUNT FOR ALL LEASED EQUIPMENT AND PARTS OVER THE FULL SEVEN (7) YEAR TERM = \$819,239.08**

**Exhibit B  
Manufacturer Warranty  
AGR24-06**

**YAMAHA GOLF-CAR COMPANY  
4-YEAR LIMITED WARRANTY  
FOR DRIVE<sup>2</sup> FLEET GOLF CAR**

Yamaha Golf-Car Company hereby warrants that any new Yamaha Drive<sup>2</sup> Gas or Drive<sup>2</sup> Electric Fleet golf car purchased from Yamaha, or an Authorized Dealer or Distributor in the United States will be free from defects in material and workmanship for FOUR years from date of purchase, subject to the stated limitations. DURING THE PERIOD OF WARRANTY, any authorized Yamaha golf car service technician, dealer, or distributor will, free of charge, repair or replace, at Yamaha's option, any part adjudged defective by Yamaha due to faulty workmanship or material from the factory. Parts used in warranty repairs will be warranted for the balance of the vehicle's warranty period. All parts replaced under warranty become property of Yamaha Golf-Car Company.

Car Components	Warranty Period	Electric Car Specific Parts	Warranty Period
Frame	Limited Lifetime to Original Owner	Battery - Trojan T875 FLA	4 Years or 23,500 amp hours whichever comes first / without HydroLink Watering System
Transaxle	4 Years		4 Years or 25,000 amp hours whichever comes first / with HydroLink Watering System *See Trojan Warranty Statement for details
Steering / Suspension Components	4 Years	Battery - Trojan T875 AGM	5 Years or 50,000 amp hours whichever comes first *See Trojan Warranty Statement for details
Brakes (Excluding Shoes / Pads)	4 Years		5 Years or 97,000 amp hours whichever comes first *See RoyPow Battery Warranty Statement for details
Sun Top	4 Years	RoyPow <sup>®</sup> Lithium-Ion Battery	
Electrical Wires, Switches, and Relays	3 Years	Battery Charger and Cord	4 Years
Pedal Assy	3 Years	Electric Motor and Controller	4 Years
Body Parts	3 Years	Charger Receptacle	4 Years
Bumpers / Bag Carrier	3 Years	Throttle Position Sensor	2 Years
Seats	2 Years	<b>Gas Car Specific Parts</b>	<b>Warranty Period</b>
Scorecard Holder	2 Years	Gas Engine	4 Years
Floor Mats	2 Years	Starter Generator	4 Years
<b>Common Accessories</b>	<b>Warranty Period</b>	Exhaust / Intake	4 Years
Genuine Yamaha Fleet Accessories	3 years* *Refer to the Accessory Warranty Statement for details	Clutch (Excluding Drive Belt)	4 Years
		Throttle / Control Cables	3 Years
		Starting Battery	1 Year
		<b>All Remaining Parts</b>	<b>1 Year</b>

**EXCLUSIONS** from this Warranty shall include any failures caused by:

- Abnormal strain, neglect, or abuse, including lack of proper maintenance, and use contrary to the Owner's/Operator's Manual instructions.
- Accident or collision damage.
- Installation of parts or accessories that are not original equipment.
- Fading, rust, or deterioration due to exposure or ordinary wear and tear.
- Modifications or alterations that affect the car's condition, operation, performance, or durability.
- Damage due to improper transportation.
- Acts of God, e.g., lightning, hail damage, flooding, fire, etc.

This Limited Warranty does not cover any parts replaced due to normal wear or routine maintenance, including oil and air filter elements, brake shoes, tire wear, spark plugs, starter and clutch drive belts. Any charges incurred in transporting a golf car or charger to and from an authorized Yamaha golf car dealer for service or in performing field service are also excluded from this warranty. Gasoline-powered golf car starting batteries on vehicles equipped with a golf course GPS device, or any other device with a parasitic current draw, unless the vehicle is equipped from the factory with an optional deep cycle starting battery, are also excluded from this warranty.

**The Customer's Responsibility Under This Warranty Shall Be To:**

- Operate and maintain the golf car, personal transportation vehicle (PTV), or commercial (Utility) vehicle as specified in the appropriate Owner's/Operator's manual, and
- Give notice to an authorized Yamaha Golf car dealer/distributor of all apparent defects within ten (10) days of discovery, and make the car available at that time for inspection and repairs at the dealer's/distributor's place of business, and
- Transport the car to and from an authorized dealer or distributor for warranty service.

**WARRANTY TRANSFER:** To transfer the warranty from the original purchaser to any subsequent purchaser(s), it is imperative that the vehicle be inspected and registered for warranty by an authorized Yamaha Golf Car dealer. In order for this warranty to remain in effect, this inspection and registration must take place within ten (10) days after transfer of ownership to the subsequent purchaser. A reasonable dealer-imposed fee may be charged for this inspection.

**EMISSION CONTROL SYSTEM WARRANTY (USA only):**

Yamaha Golf-Car Company also warrants to the ultimate purchaser of each gas-powered golf car covered by this warranty that the product is designed, built, and equipped so as to conform at the time of sale with all U.S. emission standards applicable at the time of manufacture and that it is free from defects in materials and workmanship which would cause it not to meet these standards within the same time period described in THE PERIOD OF WARRANTY above, or a minimum of two years, whichever is longer. Failures other than those resulting from defects in material or workmanship which arise solely as a result of owner abuse and/or lack of proper maintenance are not covered by this warranty.

*Yamaha Golf-Car Company makes no other warranty of any kind, expressed or implied. All implied warranties of merchantability and fitness of merchantability and fitness for a particular purpose which exceed the obligations and time limits stated in this warranty are hereby disclaimed by Yamaha Golf-Car Company and excluded from this Warranty.*

*Some states do not allow limitations on how long implied warranty lasts, so the above limitation may not apply to you. Also excluded from this Warranty is any incidental or consequential damages including loss of use. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above exclusion may not apply to you. This Warranty give you specific legal rights, and you may also have other rights, which vary from state to state.*

YAMAHA GOLF-CAR COMPANY  
Kennesaw, GA 30144

EFFECTIVE DATE: 10/1/23  
LIT-F819F-FL-23