

**PINNACLE OUTLOT A  
MAINTENANCE AGREEMENT**

THIS PINNACLE OUTLOT A MAINTENANCE AGREEMENT (the "Agreement") is made and entered into to be effective commencing January 1, 2015, by and between THE PINNACLE AT UTE CREEK HOMEOWNERS ASSOCIATION INC., a Colorado non-profit corporation ("Ute Creek HOA") and PINNACLE CONDOMINIUM ASSOCIATION INC., a Colorado non-profit corporation ("PCA").

**RECITALS**

A. The Final Plat for Spring Valley Phase 8, Parcel P, recorded on May 7, 2002 at Reception No. 2285376 in the office of the Clerk and Recorder of Boulder County, Colorado ("The Pinnacle Final Plat") created 37 residential Lots (the "Lots") and 2 outlots identified as Outlot A and Outlot B. This Agreement pertains only to Outlot A ("Outlot A").

B. The Ute Creek HOA was established pursuant to the Amended Restated Declaration of Covenants of Conditions and Restrictions of The Pinnacle Ute Creek Homeowners Association, Inc., recorded on November 17, 2004, at Reception No. 2643368 in the office of the Clerk and Recorder of Boulder County (the "Ute Creek Declaration"). The Ute Creek Declaration identifies the Lots and Outlots A and B as property annexable to the Ute Creek Declaration so long as such annexation was accomplished not later than seven (7) years after the date of recording of the Ute Creek Declaration. As of November 17, 2011, the seven (7) year anniversary of the recording of the Ute Creek Declaration, only the following Lots had been annexed to the Ute Creek Declaration:

Lots 2 through 4, and Lots 10 – 21, inclusive, Block 1, Spring Valley Phase 8, Parcel P (said lots are referred to herein as the "Ute Creek Lots")

C. The PCA has been established pursuant to a certain Condominium Declaration of Pinnacle Condominiums, recorded January 3, 2014 at Reception No. 03360525 in the office of the Clerk and Recorder of Boulder County, Colorado (the "Pinnacle Declaration"). The Pinnacle Declaration identifies the following property as annexable to the Pinnacle Declaration:

Lot 1, Lots 5 – 9, and Lots 22 – 37 inclusive, Block 1, Spring Valley Phase 8, Parcel P (Lot 1, Lots 5 – 9 and Lots 22 – 37 are referred to herein as the "Pinnacle Lots")

D. Boulder Creek Builders is the current owner of the Pinnacle Lots and Outlot A.

E. Boulder Creek Builders intends to construct and sell condominium units on the Pinnacle Lots, as contemplated by the Pinnacle Declaration.

F. In conjunction with the development and construction of improvements on Ute Creek Lots, a portion of Outlot A was landscaped by the builder and developer of those lots.

G. In connection with the development and construction of condominium units on the Pinnacle Lots, Boulder Creek Builders intends to landscape the balance of Outlot A pursuant to the Master Landscape Plan for Pinnacle as depicted on the PDP/FDP Amendment Sheets 6 – 10, bearing a last revision date of April 22, 2005. Boulder Creek Builders does not intend to install any individual lot landscaping on the Ute Creek Lots.

H. Because the Ute Creek Lots and the Pinnacle Lots are adjacent to and have access to and use of Outlot A, the Ute Creek Association and the PCA each believe it to be fair and appropriate to share the expense of maintenance, repair, watering and replacement of landscaping, sidewalks, benches and any and all other improvements located on Outlot A (collectively the “Outlot A Landscaping Improvements”).

NOW, THEREFORE, in consideration of the foregoing Recitals, which are an integral part of this Agreement, and the promises, covenants and agreements contained herein, the Ute Creek Association and the PCA covenant and agree as follows:

1. Ownership of Outlot A. The PCA shall be the owner of Outlot A upon conveyance of Outlot A to the PCA by Boulder Creek Builders.

2. Maintenance of Outlot A. The PCA shall have the sole and exclusive responsibility for determining the scope and timing of required maintenance and repair of Outlot A and the Outlot A Landscaping Improvements. In performing this maintenance responsibility, the PCA shall enter into necessary and appropriate contracts with third-party contractors for the reasonable and necessary maintenance of Outlot A and the Outlot A Landscaping Improvements. As a part of determining who the third party contractor will be, PCA shall include parties recommended by Ute Creek HOA for consideration. Prior to contracting with any third-party contractors, PCA shall secure approval of the contractor(s) from the Ute Creek HOA, which approval shall not be unreasonably withheld or delayed. Maintenance and repair may include, but not be limited to, maintenance, repair, and replacement of the automatic sprinkler system, watering of landscaping, mowing, fertilizing, aerating, trimming of trees and shrubs, planting of annuals and perennials, tree, shrub and turf replacement, capital improvements and replacements and any other work deemed necessary or desirable by PCA.

3. Annual Budget. The PCA shall, as part of its annual budget for 2015 and subsequent years, include line items estimating the anticipated annual expense of maintaining Outlot A and the Outlot A Landscaping Improvements, as described in paragraph 2 above. The PCA shall provide a copy of the budget for these items to the Ute Creek Association. Both parties understand that the budget will set forth projected and anticipated expenses, but is an estimate only and that the actual expenses of maintaining Outlot A and the Outlot A Landscaping Improvements may exceed the amount established by the annual budget.

4. 2014 Actions. It is anticipated that installation of the landscaping and other improvements on Outlot A during 2014 by Boulder Creek Builders. Upon completion of installation of those improvements, it is anticipated that Boulder Creek Builders will convey Outlot A to the PCA and, thereafter, that the PCA shall have responsibility for maintenance of Outlot A and the Outlot A Landscaping Improvements, in accord with this Agreement. Boulder Creek Builders shall be responsible for the installation maintenance, and warranty of the Landscaping Improvements, as required by applicable governmental regulations and the Ute Creek HOA shall have no responsibilities in that regard. .

5. Cost Sharing. From and after January 1, 2015, the Ute Creek Association shall be responsible for paying thirty-eight percent (38%) of the cost of maintaining Outlot A and the Outlot A Landscaping Improvement. Payment of the Ute Creek Association's thirty-eight percent (38%) share of these costs shall be as follows:

a. At such time as the landscaping and other improvements to Outlot A has been completed and Outlot A has been conveyed to the PCA, the PCA shall provide written notice to the Ute Creek Association. The notice shall inform the Ute Creek Association that commencing January 1, 2015, the Ute Creek Association is required to pay thirty-eight percent (38%) of the estimated monthly expenses associated with maintaining Outlot A and the Outlot A Landscaping Improvements.

b. The budgetary information for anticipated Outlot A and the Outlot A Landscaping Improvement maintenance and repair, as provided in paragraph 3 above, for calendar year 2015 and each thereafter shall be provided by written notice from the PCA to the Ute Creek Association no later than November 1, 2014 and November 1 of each succeeding year thereafter. The notice from the PCA to the Ute Creek Association submitting the annual budget information shall also set forth the monthly prorated thirty-eight percent (38%) share payable from the Ute Creek Association to the PCA. Commencing in calendar year 2015 and each year thereafter, the Ute Creek Association shall pay the PCA a monthly payment equal to its budgeted thirty-eight percent (38%) share on or before the first of each month in the amount established by the PCA's budget for the maintenance of Outlot A and the Outlot A Landscaping Improvements.

c. On or before February 15 of each year, the PCA shall complete an accounting of the actual costs of performing reasonable and necessary maintenance of and repair to Outlot A and the Outlot A Landscaping Improvements. If the accounting reflects that the actual costs of the work was less than the budgeted amount, the PCA shall refund to the Ute Creek Association the amount overpaid by the Ute Creek Association, as established by the accounting. If the result of the accounting is that the actual costs for the work was greater than the budgeted amount, the PCA shall submit a bill to the Ute Creek Association for the additional amount due from the Ute Creek Association and the Ute Creek Association shall remit that amount to the PCA within 30 days of the date of the notice of underpayment.

d. Any amounts due and payable hereunder which remain unpaid for a period of more than thirty days after the due date shall bear interest at twelve percent per annum.

6. Term. The term of this Agreement shall be for a period of through and including June 30, 2034. Thereafter, this Agreement shall automatically be renewed for successive terms of twenty (20) years each. Each successive renewal shall be effective thirty (30) days prior to expiration of the then current term of this Agreement. This Agreement may at any time, be terminated upon the signed, written agreement of an authorized officer of both the Ute Creek Association and the PCA.

7. Integration and Amendment. This Agreement comprises the entire understanding between the parties concerning the subject matter of this Agreement and supersedes and replaces all prior negotiations, discussions, comments and suggestions with respect to such matters, all of which are deemed to be integrated herein. This Agreement may be amended only by a written amendment, executed by an authorized officer of both the Ute Creek Association and the PCA.

8. Severability. All provisions of this Agreement are severable. Invalidation of any of the provisions of this Agreement by judgment, court order or otherwise, shall in no way effect or limit any other provisions, which shall remain in full force and effect.

9. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Ute Creek Association and the PCA.

10. Governing Law. This Agreement shall be governed by, and construed under the laws of the state of Colorado. Venue for any disputes arising under this Agreement shall be exclusively in the county or district court of Boulder County, Colorado.

11. Attorneys Fees. In the event of any dispute arising under this Agreement, the prevailing party in such dispute shall be entitled to recover its reasonable attorneys fees and court costs.

12. Water Tap. The Ute Creek Association owns the existing water tap located at the northerly portion of Outlot A. PCA shall be entitled to water service from that tap for purposes of performing its maintenance delegations hereunder. The Ute Creek HOA and PCA shall cooperate in assuring that billings for said water tap are directed to PCA. The PCA shall bill the third-party user of water from said water tap for said third-parties' share of water usage from said tap.

13. Notices. Notices under this Agreement shall be effective upon hand delivery, three (3) days after deposit in the U.S. Mail by certified mail, return receipt requested, or one (1) day after submission for overnight delivery by Federal Express, UPS, or a similar service to the following addresses:

Ute Creek Association

To: PML, Inc  
1155 South Main Street  
Longmont, CO 80501

PCA

To: Harmony Mgmt Group  
6500 Stapleton Dr. S, Ste K  
Denver, CO 80216

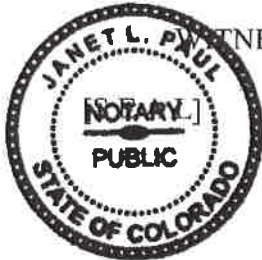
IN WITNESS WHEREOF, the Ute Creek Association and the PCA have set their hands and seals as set forth below.

PINNACLE AT UTE CREEK HOMEOWNERS ASSOCIATION

By: Jinda Welter  
Its: President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Boulder )

On this 14<sup>th</sup> day of ~~February~~ July, 2014, before me personally appeared Jinda Welter ~~President~~ of Pinnacle at Ute Creek Homeowners Association, to me personally known to be the person who signed and sealed the foregoing instrument on behalf of Pinnacle at Ute Creek Homeowners Association, and he acknowledged that he executed the same for the uses and purposes therein set forth.



WITNESS my hand and official seal.

Janet L. Paul  
Notary Public  
January 25, 2015

My commission expires:

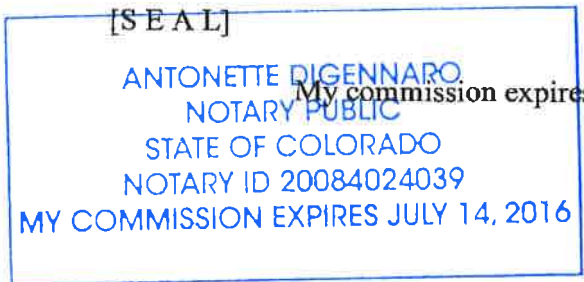
PINNACLE CONDOMINIUM ASSOCIATION, INC.

By: Debbie K Barker  
Its: President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

On this 15 day of ~~February~~ JULY, 2014, before me personally appeared DEBBIE K BARKER of Pinnacle Condominium Association, Inc., to me personally known to be the person who signed and sealed the foregoing instrument on behalf of Pinnacle Condominium Association, Inc., and he acknowledged that he executed the same for the uses and purposes therein set forth.

WITNESS my hand and official seal.



My commission expires:

Antonette DiGennaro  
Notary Public  
7/14/16