

## SERVICE AGREEMENT

THIS SERVICE AGREEMENT dated this 1st day of November, 2010.

BETWEEN

**POINTS WEST RESORT  
THE OWNERS CONDOMINIUM PLAN #882 2950 and 882 2999  
SYLVAN LAKE, AB  
(corporation)**

THE PARTY OF THE FIRST PART

AND

**BIG COUNTRY MAINTENANCE**

  
  
(the "Contractor")

THE PARTY OF THE SECOND PART  
(collectively the "Parties")

WITNESSETH that in consideration of the mutual covenants and consideration herein contained, the parties hereto agree as follows:

### 1. DEFINITIONS

- 1.1. "Property" means the lands and premises municipally known as Points West Resort in Sylvan Lake in the Province of Alberta.
- 1.2. "Services" means the services more particularly described in Schedule "A" attached hereto, which Schedule forms a part of this Agreement.

### 2. APPOINTMENT

- 2.1. The Corporation hereby appoints the Contractor and the Contractor hereby accepts such appointment and agrees promptly and efficiently to provide or cause to be provided the Services for and in respect of the Property and shall carry out or cause to be carried out the Services in a careful and workmanlike manner. The Contractor shall supervise the Services at all times and shall provide, at its own expense, the labour, materials and equipment necessary to perform the Services, to the satisfaction in all respects, of the Corporation.

### 3. TERM OF THE AGREEMENT

- 3.1. This Agreement shall be for a term commencing on the **April 12th, 2011 ending upon completion prior to October 31<sup>ST</sup>, 2013** inclusive (the "Term").

#### **4. FEES AND PAYMENT**

- 4.1. The Corporation agrees to provide payment to the Contractor as outlined for all services performed by the Contractor in accordance with the Services (see attached Schedule "A").
- 4.2. On or before the last day of each month the Contractor shall submit to the Corporation, in writing, an invoice covering the value of the Services performed by the Contractor up to such date.
- 4.3. This Agreement is issued exclusive of the Federal Government Goods and Services Tax (GST). The GST at the established rate must be shown as a separate cost on the application for payment. Invoices are to clearly show the Contractor's GST Registration number.
- 4.4. Payment to the Contractor by the Corporation in the full amount for all labour and materials that have been supplied to date shall be made within thirty (30) days from the said date, but not in any event until the Services have been fully completed to the satisfaction of the Corporation in accordance with the Agreement documents.
- 4.5. The Corporation and Contractor agree that should the service frequencies be increased or decreased, the contract price shall be adjusted to conform to the new service condition, but only when mutually agreed upon in writing.
- 4.6. The Contractor shall credit the Corporation for any services not provided under this Agreement.

#### **5. PERFORMANCE**

- 5.1. It is mutually agreed between the Corporation and the Contractor that no payment made under this Agreement shall be conclusive evidence of the performance of this Agreement, either wholly or in part, and no payment shall be construed to be an acceptance of poor workmanship, inappropriate procedures, defective Services, malfunctioning equipment, or improper materials.
- 5.2. Both parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

#### **6. NON-PERFORMANCE**

- 6.1. If the Contractor is judged to be bankrupt or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on his behalf, or if he should refuse or fail to supply enough properly skilled workmen or proper materials or fail in any respect to fulfil the Services with promptness and diligence or fail in the performance of any of the agreements herein contained, the Corporation, upon written notice to the Contractor and the surety, may without prejudice to any other remedy he may have, terminate the employment of the Contractor and finish the Services by whatever method he may deem expedient, but without undue delay or expense. In such case the Contractor shall not be entitled to receive any further payment until the Services are finished. If the unpaid balance of the Agreement price shall exceed the expense of finishing the Services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Corporation.

- 6.2. In the event the Contractor fails to accomplish any Service or Services under this Agreement, the Corporation will provide reasonable notice to take corrective action. If the Contractor does not perform the Service, the Corporation may, at its sole option, cause the non-performed task to be accomplished through another source and deduct the cost of such from the amount normally due the contractor for that monthly period.

## **7. TERMINATION**

- 7.1. If the Corporation shall at any time or times be of the opinion that the Contractor is neglecting the Services or is not progressing with the Services in a timely manner or is otherwise violating any of the provisions of this Agreement, the Corporation shall notify the Contractor by written notice personally delivered to the Contractor's address to proceed with the Services in a satisfactory manner or more rapidly or otherwise to comply with the provisions of this Agreement, as the case may be. If, after twenty-four (24) hours have expired following service of the notice referred to in this paragraph, the Contractor has not satisfactorily commenced action to remedy the problem, the Corporation may forthwith terminate this Agreement without further delay or notice and without any liability therefore.
- 7.2. Notwithstanding the Term of this Agreement, either party shall have the right to terminate this Agreement at any time, for whatever reason, upon giving the other party thirty (30) days prior written notice. In such event, the Corporation shall not be liable to pay any damages or compensation, except the payment to the Contractor for the services provided up to the date of such termination.

## **8. PERSONNEL**

- 8.1. The Contractor is responsible for the supply of all labour, equipment, tools, materials, transport, and any other Services required carrying out and completing the Services. The Contractor agrees to complete the Services expediently as the Corporation dictates, and to furnish all labour, materials, supplies, equipment, tools and other facilities of every kind and description required for the prompt and efficient execution and performance of the Services described herein at the said Property in strict compliance and in accordance with the conditions specified in this Agreement.
- 8.2. The Contractor shall engage, at its own expense, such personnel as are necessary to properly carry out the Services. The Contractor shall employ only orderly, competent and skilful personnel to perform the Services.
- 8.3. The Corporation shall have no responsibility for Worker's Compensation, vacation pay, training, severance pay, termination pay, fringe benefits, income tax, GST or other payroll deductions or incidents of employments relation of any kind whatsoever in respect thereof. All personnel shall be under the control and orders of the Contractor and its supervisory staff. The Contractor shall ensure that all persons supplied by the Contractor in performance of the Agreement comply with all applicable rules established by the Corporation with respect to the Property.
- 8.4. All Contractors' personnel shall be instructed in all required safety procedures.

- 8.5. Contractor's employees must not assist any person(s) in gaining access in to the Property or to any areas within the Property. Contractor employees shall access and egress the Property by way of designated entrances and exits only. The Contractor's employees shall immediately report any lost keys or access cards to the Corporation's representative.
- 8.6. Drinking of alcoholic beverages, using drugs while on the job or immediately before reporting on the job, or being under the influence of alcohol or drugs shall not be tolerated and the Contractor's employee will be immediately removed from the project by the Contractor.
- 8.7. If any person employed in the work is considered to be, in the opinion of the Corporation, intemperate, disorderly, incompetent, wilfully negligent, or dishonest in the performance of his/her duties, he/she shall, on the written request of the Corporation, be forthwith removed from the project.

## **9. SUPERVISION AND INSPECTIONS**

- 9.1. The Corporation reserves the right to periodically conduct any inspections to determine the overall quality of the Contractor's performance, the job knowledge of the Contractor's personnel, the effectiveness of training and site orientation and to determine the conduct and appearance of personnel.
- 9.2. The Corporation shall be the sole judge of the adequacy, performance, and completeness of the Contractor's work as spelled out by this Agreement.
- 9.3. The Corporation shall be required to have at least one designated supervisor on site at the days and times when employees of the Contractor are at the Property performing the services required under this Agreement.

## **10. WORKERS' COMPENSATION BOARD AND "WHMIS"**

- 10.1. Before any part of the Services is commenced under this Agreement, the Contractor shall furnish the Corporation with evidence, satisfactory to the Corporation, of compliance with all requirements of any applicable worker's compensation legislation and regulations. If any part of the Services is subcontracted pursuant to the conditions hereof, before any such part of the Services is commenced by any subcontractor, the Contractor shall furnish the Corporation the evidence, satisfactory to the Corporation, of compliance with all requirements of any applicable worker's compensation legislation and regulations by each and every subcontractor which the Contractor has employed in performing the Services or any part hereof. The Contractor represents that all personnel or subcontractors employed by the Contractor at the Property will be duly trained as required by WHMIS legislation and that all materials brought onto the Property will be handled, stored, and documented in a safe and proper manner as required by legislation. The Contractor hereby accepts full responsibility for compliance with WHMIS and any and all other workplace safety legislation.

## 11. COMPLIANCE WITH LEGISLATION

- 11.1. The Contractor shall, at its own expense, comply with all laws, by-laws, and regulations in forms relative to provision of the Services in the locality wherein the Services are to be performed and the Contractor shall obtain permits from Municipal or other authorities necessary for the performance of the Services. Furthermore, the Contractor and its staff will at all times abide by all municipal, provincial, and federal statutes and regulations in the execution of the Services.

## 12. INSURANCE AND OTHER CERTIFICATES

- 12.1. Upon being awarded a contract, certificates of each policy or policies representing those described below shall be delivered to and retained in confidence by Sunreal Property Management Ltd. In the event of any changes during the terms of the agreement, the Contractor shall forthwith notify Sunreal Property Management Ltd. and deliver revised certificates.
- 12.2. The Contractor shall, at its own expense, keep in force at all times for the duration of the contract, public liability, property damage and personal injury insurance in a combined single limit of **Two Million Dollars (\$2,000,000)** with a company satisfactory to and in a form approved by Sunreal Property Management Ltd.
- 12.3. Where vehicles are brought on to the Property, the Contractor shall, at its own expense, keep in force at all times for the duration of the contract, automobile insurance having property damage and public liability coverage upon terms satisfactory to Sunreal Property Management Ltd. and not less than **Two Million Dollars (\$2,000,000)** for each occurrence covering all vehicles owned, leased, rented or operated on behalf of the Contractor by his employees.
- 12.4. Indemnity – The Contractor shall indemnify the Corporation against liability for death or personal injury and loss resulting from the negligence of the Contractor and against any loss or damage to the Property caused by the negligence of the Contractor during the performance of the Contractor's Services. The extent of such liability, loss or damage shall be limited to a maximum of **Two Million Dollars (\$2,000,000)**. It is understood that this indemnity shall only apply during the time the services are provided and is not applicable for occurrences of any nature before or after the performance of the services. For clarity, the Contractor shall not be liable for debris that accumulates before and after the actual services are rendered.

## 13. PROTECTION OF PROPERTY AND MAKING GOOD

- 13.1. The Contractor shall use extra care to ensure that the Corporation's property, including, but not limited to, such things as curbs, speed bumps, trees, shrubs, lawns, fencing, posts, transformers, signs, garbage enclosures, fire hydrants, mail boxes, buildings, doors, windows, and any vehicles parked on or adjacent to the Property are not damaged while Services are being carried out under this Agreement.
- 13.2. Damage to the Corporation's or their tenant's or their visitor's property is to be made good by the Contractor at a time satisfactory to the Corporation and at no additional cost.

**14. ASSIGNMENT**

- 14.1. This Agreement may be assigned by the Corporation at any time and such assignee shall have all the rights and be subject to all the obligations hereof in favour of or against the Contractor.
- 14.2. The Contractor shall not assign, delegate, sub-contract, sub-license or transfer in any manner whatsoever its rights, entitlements, duties or obligations under this Agreement, except with the prior written consent of the Corporation, which consent may be arbitrarily withheld.

**15. ENUREMENT**

- 15.1. This Agreement and all its rights, entitlements, duties and obligations arising from it shall, subject to the provisions of this Agreement, enure to the benefit of and be binding upon the parties to it and their respective heirs, executors, administrators, successors, and assigns.

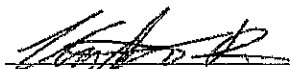
**16. ENTIRE AGREEMENT**

- 16.1. This Agreement contains the whole agreement between the Corporation and the Contractor in respect of the subject matters hereof and there are no representations, warranties, terms, conditions or collateral agreements, express, implied or statutory other than as expressly set forth in this Agreement.


IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first written above.

**CONTRACTOR:  
BIG COUNTRY MAINTENANCE**

**CORPORATION:  
POINTS WEST RESORT  
CONDOMINIUM CORPORATION  
#882 2950 and 882 2999**

  
\_\_\_\_\_  
Signature

Clayton Hughes Owner  
\_\_\_\_\_  
Name & Title

  
\_\_\_\_\_  
Signature

Property Manager, T Mutemwa  
\_\_\_\_\_  
Name & Title

**Services to be performed by Contractor**

**SCHEDULE "A"**  
**JOB #: Points West Resort**

**Big Country Maintenance**  
**AND**

**Points West Resort**

**OWNERS CONDOMINIUM PLAN #882 2950 and 882 2999**

GENERAL DESCRIPTION OF WORK OR SERVICES

1. The CONTRACTOR will commence the services on 12 April, 2011 (weather permitting) and shall perform the contract according to the condo plan and dimensions of the specific land titles plan.
2. ~~The CONTRACTOR shall include the cost of all permits, fees, equipment, materials and labor excluding irrigation maintenance supplies.~~
3. The CONTRACTOR will store such equipment and supplies off all CORPORATION property.
4. The CONTRACTOR will provide the following services: (monthly fee of \$██████████)
  - If this service has not been completed then the service can be provided within the cost of the contract. Spring maintenance of the landscaping will include: aerate, vacuum, fertilize (granular, spring feed at time of spring maintenance) and dethatch where dethatch is greater than ¼ inch.
  - Cut & trim turf once each week during mowing season of May 1 to Sept 30 except in extreme hot/dry conditions.
  - Garbage pick-up maintenance including cigarette butts with mowing visits. Garbage maintenance will include removing garbage from under bushes, around garbage bins, behind garbage bins, ashtrays, roadways, sidewalks, any common property and approximately one meter from all common property.
  - Grass clippings and garbage will be disposed of offsite.
  - Quote is based on mulch mowing. Some grass clippings may be left on lawns during heavy growing season. Grass can be bagged and hauled off of property upon Condo Corp approval. This service will be an extra charge above the contract price. Cost is subject to regular and current hourly rates.
  - Fall maintenance will include application of granular winter fertilizer (at time of fall maintenance), clean-up, and vacuum leaves.
  - Contractor will determine which equipment to use for each application unless otherwise specified during the bidding process.
  - It is the owner's responsibility to correct building and landscaping deficiencies.
  - Should the contract be terminated early by either party, a separate and final billing may be required to recover the costs of services supplied, but not yet paid for due to the monthly budgeting payment plan proposed. A breakdown of services supplied and cost of would be provided with final bill.
5. Park water activation, blowout and winterizing for a total of \$██████████ + gst, which will be billed at time of service in the spring and fall.  
Extra services provided, but not included in the quote.
  - Sweep parking lot and paved vehicular areas in spring months in conjunction with landscaping clean-up.
  - Prune tree and shrubs.

- Apply weed control fertilizer twice during growing season in June and August.

**Snow Removal:** Skid steer time charged out at regular and current skid steer rates to remove snow from vehicular areas of the park. If the snow needs to be hauled away the truck, trailer and skid steer time will be charged at regular and current rates. Emergency services must be able to enter the park in case of emergencies. The snow must be plowed after a 10 cm buildup of snow. This is an extra cost to the corporation.

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April 15, 2011 – October 31, 2011 is [REDACTED] plus GST  
(Includes [REDACTED] Park Opening/Closing)

Payment schedule  
May 1 – October 31 pays [REDACTED] per month plus GST

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April 15, 2012 – October 31, 2012 is [REDACTED] plus GST  
(Includes [REDACTED] Park Opening/Closing)

Payment schedule  
May 1 – October 31 pays [REDACTED] per month plus GST

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April 15, 2013 – October 31, 2013 is [REDACTED] plus GST  
(Includes \$2000 Park Opening/Closing)

Payment schedule  
May 1 – October 31 pays [REDACTED] per month plus GST

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