

## LANDSCAPE MANAGEMENT AGREEMENT

OWNER: PORTOFINO VISTA HOA – UNITS & COMMON AREAS

COMMUNITY ADDRESS: 3414 Allegra Circle St Cloud FL 34772

CONTACT:

PHONE NUMBER- 954-624-4730

CONTRACTOR: YELLOWSTONE LANDSCAPE – SOUTHEAST, LLC dba Yellowstone Landscape

ADDRESS: 1773 Business Center Lane, Kissimmee, FL 34758

CONTACT: Pete Wittman, Branch Manager

PHONE NUMBER: 407-396-0529

This agreement is made and entered into on the 1st day of October 2024, by and between *Portofino Vista HOA – UNITS & COMMON AREAS*, located at **3414 Allegra Circle St Cloud FL 34772** (OWNER), and Yellowstone Landscape, hereafter referred to as (“Contractor”). Owner and Contractor do hereby agree as follows:

### **A. Independent Contractor**

It is expressly acknowledged and understood that Contractor is an independent contractor under the terms of this agreement and is neither an agent of, nor shall Contractor hold itself out to any third person as an agent of Owner.

Contractor is responsible for furnishing, at its own expense, all labor, materials, equipment, and tools necessary to satisfactorily perform the services described. Nothing in this document shall in anyway create or be interpreted as creating an Employer/Employee relationship between the parties.

The Contractor covenants and swears that it and its individual employees have obtained all licenses and permits required by state and local law to do the work required under the contract or that they will obtain the necessary licenses and permits in time to comply with the law.

### **B. Scope of Service**

Contractor shall maintain all landscaped areas, including, but not limited to all trees, shrubs, lawns and groundcover. Work is described in detail in Exhibit “A” attached to this document.

### **C. Permits, Licenses, Fees and Notices**

Contractor agrees to secure and pay for all necessary permits and licenses, and post all notices and comply with all laws, ordinances, rules, regulations, and orders of any governmental authority relating to the performance of the contract. Contractor agrees to promptly notify Owner of any known violations or variances from the above.

Location

Contractor shall perform service at: **PORTOFINO VISTA HOA - UNITS & COMMON AREAS**

Address: 3414 Allegra Circle St Cloud FL 34772

Phone No: 954-624-4730

**D. Contract Fee**

<b>Service</b>	<b>Annual Services</b>	<b>Unit Cost</b>	<b>Annual Cost</b>
Grounds Maintenance	42	Included	Included
Fertilization (Lawn)	4	Included	Included
Palms Trimming	1	Included	Included
Shrubs, Ground Covers Trees and Palms Fertilization	2	Included	Included
Pest Control (Lawn, Shrubs, Ground Covers)	4	Included	Included
Hardwood Trimming (Lifting Only)	42 Up to 10 feet	Included	Included
Mulch Installation	0	Included	Included
Sprinklers	12	Included	Included
<b>Total Annual</b>			<b>\$45,324.00</b>
<b>Monthly Rate</b>			<b>\$3,777.00</b>

E. Contractor expressly understands and acknowledges that Villa Portofino East HOA enters into this Agreement solely as the Agent of Owner. Owner is responsible for the payment of any services or materials performed or delivered and not the Lincoln Property Company-affiliated company, which is the property management company and agent for the Owner of the community, and is referred to herein as “Agent”.

**F. Terms of Agreement**

This Agreement shall commence on the 1<sup>st</sup> day of October 2024 and automatically terminating on September 30<sup>th</sup>, 2025.

**G. Early Termination**

This Agreement may be terminated at any time by either party upon thirty (30) days written notice of termination. Upon the exercise of the right of termination under this paragraph, Contractor shall not be entitled to any sums of compensation in excess of those accrued at the end of the thirty (30) day notice period. Owner may exercise the option to terminate under this paragraph at any time. Accordingly, Contractor shall have no claim for incidental or consequential damages in the event of termination under this paragraph. Contractor may only exercise its right to terminate this agreement on the completion of a 30-day period as outlined in paragraph D. Upon thirty-day (30) day notice, this agreement shall remain in full force and effect for the thirty (30) day period; thereafter, all obligations of the parties shall cease under this Agreement.

**H. Transfer of Property**

This Agreement shall automatically and immediately terminate upon the transfer or conveyance of the property by Owner; whether such transfer is voluntary or involuntary and whether or not notice is given to Contractor.

**I. Safety**

The Contractor warrants that it has the expertise to determine what safety procedures are required to protect workers, residents, or others during the performance of the contract, and that it will comply with, and assure its employees comply with, all safety requirements that are required by law, are standard in the industry, or would be employed by a prudent person in performing the work at hand.

Owner acknowledges and agrees that as part of Contractor's driver safety program, Contractor's vehicles may contain recording devices, and both audio and video recordings may be made during the provision of services hereunder.

**J. Insurance and Taxes**

Contractor agrees to secure and maintain all appropriate insurance, including workers compensation, general liability and property damage insurance. The Contractor agrees to carry liability insurance in adherence with the Vendor Insurance Requires an Agreement Form

(attached as Exhibit B) or as otherwise stated in this Agreement. Contractor agrees to provide Owner and/or Agent with proof of such insurance upon request (schedule of insurance type, coverage, limits and carriers). Contractor's coverage shall be primary to any insurance maintained by Owner and/or Agent. Each policy is to be endorsed with a waiver of subrogation in favor of the Owner and the Agent as listed in the management agreement. All Certificates of Insurance for coverage must show the Owner and the Agent as listed in the Management Agreement as additional insured's and must include a waiver of subrogation for all coverage's in favor of the Owner and the Agent.

Contractor agrees to pay all applicable taxes, including sales and use taxes on materials or equipment supplied and all other federal, state or local taxes applicable in any way to the work.

Contractor agrees to perform all work in strict accordance with the requirements set by City, County, State and Federal codes, ordinances and regulations.

#### **K. Terrorism and Money Laundering**

Contractor represents and warrants to Owner as follows:

- a) Contractor is not now nor will Contractor be at any time following the execution of this Agreement a Person with whom a U.S. Person is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under U.S. law, regulation, executive orders and lists published by the Office of Foreign Asset Control ("OFAC") (including those executive orders and lists published by OFAC with respect to Specially Designated Nationals and Blocked Persons) or otherwise (such persons being referred to in this Agreement as "Prohibited Persons"); and
- b) Contractor has made reasonable inquiry and taken such other steps, consistent with best industry practices (including conducting background searches and checking published lists of Prohibited Persons) and in any event as required by applicable law, to ensure that no Person who is an employee, independent contractor or subcontractor of Contractor organization or who owns an interest in Contractor is now, or will be at any time following the execution of the Agreement, a Prohibited Person.

#### **L. Immigration Compliance**

The Contractor shall comply with the Immigration Reform and Control Act of 1986 ("IRCA") in all respects for each employee who performs work pursuant to or in furtherance of this Agreement. The Contractor warrants that an authorized representative of the Contractor has (1) verified the employee is legally authorized to work in the United States for the duration of this Agreement; (2) required the employee to complete and execute Section I of the DHS Form I-9; and (3) completed and executed Section 2 of the DHS Form I-9; and (4) processed through the Department of Homeland Security – employment Eligibility Verification "EEV". The contractor further agrees to indemnify, defend and save Owner and/or the Owner's Agents from and against any and all claims, losses, costs and liabilities arising out of the Contractor's failure to comply with this provision.

#### **M. Lien Waivers**

Contractor agrees to sign appropriate lien waivers as payments are made hereunder for services performed and materials provided hereunder and to obtain appropriate lien waivers from its subcontractors and material men to the extent required by the Agent.

#### **N. Indemnity as to Liabilities**

Contractor expressly agrees to protect, indemnify and hold harmless Owner, and/or its Agent, its employees, agents, and representatives from any and all claims, suits, damages and actions of any kind resulting from an act or omission of the Contractor, its employees, agents or servants or representatives, without regard to the party or parties who may suffer, receive or sustain any damages and regardless of whether such damages are to property or person, including but not limited to, damages or injuries arising through the use of the improper or defective materials or tools, or through the failure to give suitable notice to all parties whose person, estates or premises may be in any way interested or affected by the performance of the work specified in this contract, or through the failure of the Contractor to promptly pay when due all charges for material and labor, or through the lack of adequate supervision, or through or caused by any patented or unpatented article, appliance or invention manufactured or used in the performance of this Agreement. It is expressly understood and agreed that at the option of Owner, Contractor shall either defend any and all suits or actions that may be brought against Owner by reason of any act or omission described above at his own cost or Owner shall have the right to defend same and to charge all costs of such defense to Contractor.

The Contractor agrees to indemnify and hold harmless owner against all cost and claims for transportation, freight and expense for men, materials and equipment, to and from the property, and for all other incidental expenses in connection with the work to be performed under this Agreement, and to pay transportation charges on all materials shipped and to pay all sales and use taxes applicable to the materials or equipment and all other federal, state or local taxes applicable in any way to the work.

#### **O. Assignment**

This Agreement may not be assigned by Contractor without the prior written consent of the Owner or Owner's Agent. Subject to the provisions herein, all of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Owner and Contractor to the same extent as if each successor and assignee were in each case named as a party to this Agreement.

#### **P. Severability**

If any term or provision of the Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, shall not be affected, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

#### **Q. Performance**

Should Contractor for reasons within its control either (a) default in completing the work within the time outlined herein or (b) fail or refuse to supply a sufficient number of skilled workmen or materials of proper quality, and fails to correct the situation to Owner's

satisfaction within forty-eight (48) hours of notice from Owner, then Owner shall be allowed to deduct from the sums due Contractor as liquidated damages and not as penalty, and such amounts shall be reasonable values of the estimated damages or delay; or Owner may elect to supplement Contractor's crews as Owner's sees fit in order to bring Contractor's work up to standard or schedule or both and charge the cost to the Contractor.

**R. Applicable Law**

This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

**S. Entire Agreement**

The Agreement and the documents referenced herein shall be construed together and constitute the entire, full and complete agreement between the Owner and Contractor and there are no representations, inducements, promises or agreements, oral or otherwise, have been made between these two parties.

**T. Acceptance**

This AGREEMENT and its EXHIBIT constitute the entire understanding of the parties and supersedes any prior proposals, understandings or agreements.

**Portofino Vista HOA – UNITS & COMMON AREAS**

  
*Brandon Sumner, Property Manager PNC*

DATE: 10/2/24

~~Agent for Owner Wicky Cortes, President  
Portofino Vista HOA – UNITS & COMMON AREAS~~

Pete Wittman

DATE: 9/26/24

Contractor  
**Yellowstone Landscape – Southeast LLC**

# LANDSCAPE MAINTENANCE AGREEMENT

## EXHIBIT "A"

### I. GENERAL

#### A. **Scope of Work**

Contractor shall furnish all labor, materials, equipment and horticultural supervision necessary to maintain the landscape in an attractive condition throughout the year in accordance with the specifications below.

#### B. **Work Force**

Contractor's work force shall be properly attired at all times and conduct themselves and perform their work in a professional manner. Maintenance vehicles and equipment shall be located out of the way of mainstream pedestrian and vehicular traffic, allowing the Contractor's presence to be as inconspicuous as possible. Contractor's representatives shall be knowledgeable in accepted horticultural principles and experienced in landscape maintenance.

#### C. **Insurance, Taxes**

You agree and fully understand that you are a private and independent Contractor and will provide Workman's Compensation, Unemployment Insurance Contractor's Liability and any other insurance required by law. Certificates of insurance shall be available to Owner upon request.

Contractor agrees to pay all applicable taxes, including sales tax on material supplied.

All work shall be done in strict accordance with requirements set by City, County, State and Federal codes, ordinances and regulations.

#### D. **Neglect and Vandalism**

Turf, shrubs, trees or plants, as well as any sprinkler heads, that are damaged, injured or killed due to Contractor's operations, negligence or chemicals shall be replaced at Contractor's sole expense. If plant damage or death is caused by conditions beyond the Contractor's control, replacement shall be at Owner's discretion and expense.

#### E. **Additional Work**

Contractor shall furnish Owner with an estimate in writing for any additional work which may be required or requested during this contract.

#### F.

### II. SERVICES

**A. TURF MAINTENANCE:**

Contractor shall perform its services as often as is required to cut and maintain all turf areas at the proper seasonal height (42 cuts per year) In no event, however, shall Contractor make less than 42 visits per year. At each and every visit, Contractor's service shall include, but not be limited to edging, trimming, blowing, removal of excessive clumping and early season preparation. The identification of any detrimental insect or disease will be reported to Owner immediately.

**B. BED MAINTENANCE:**

The cultivation (no deeper than 2 inches) or weed eradication of all bed areas will be performed in accordance with the 42 visits per year. Bed areas will have a defined edge and tree wells will be kept around trees in lawn areas to prevent bark damage. The office and pool areas will be checked weekly and cleaned more often if deemed necessary.

**C. SHRUB CARE:**

Shrubs and groundcovers will be maintained at their optimum shape and size according to the individual potential of the plant involved, with the idea of allowing seasonal blooming where applicable. Shrub and groundcover areas will be kept free of weeds and debris.

According to Exhibit A there will be 42- Bush and Hedge Trimming's scheduled to be Completed throughout the twelve months of landscape service.

**D. TREE MAINTENANCE:**

Contractor shall maintain trees free of suckers and low hanging limbs to a height of eight (10) feet from the ground. Trees will be shaped according to horticultural practices. Contractor shall further straighten and guy all trees within the ten (10) foot height range.

**E. CLEAN-UP:**

Parking lots will be blown every service and vacuumed around the edge per visit. Leaves will be cleaned up 42 visits annually. Weeds in the parking lots and sidewalks will be controlled with appropriate chemical methods on a regular basis.

**F. PLANT INSPECTION:**

Plant inspection will be performed monthly to identify any problems that may arise and need attention beyond the regular maintenance schedule.

**G. LAWN FERTILIZER:**

Lawn areas will be fertilized a minimum of (4) times per year (at the appropriate time for the region of the country) with the proper fertilizer according to the requirements of the type of turf and growing conditions. Application amount shall be appropriate to square footage of area. According to Exhibit A- there will be "4" lawn fertilizations, "4" pest controls services, for life of the contract.

**H. FERTILIZE SHRUB AND GROUND COVER:**

Shrub and ground cover areas will be fertilized with appropriate fertilizers (2) times per year. According to Exhibit A: Fertilization Schedule, the following months will be scheduled to have all lawn areas fertilized by Contractor which includes, but does not limit Weed and Feed: trees, palms, shrubs and hedges with Contractor.

**Spot treat lawn areas in between services for any evidence of chinch bugs or other visible pests, included in monthly service.**

**I. TREE FERTILIZATION:**

Trees will be given supplemental root fertilization with an appropriate fertilizer "2" times per year.

**J. WEED CONTROL -- PRE-EMERGENT:**

A pre-emergent herbicide will be applied to lawn areas in the spring and fall, to inhibit the germination of annual weed species.

**K. WEED CONTROL -- POST EMERGENT:**

4 applications of appropriate post-emergent herbicides will be applied to lawn areas to kill established weeds.

**L. LAWN INSECT CONTROL:**

4 applications of an appropriate insecticide to help control turf pests such as ants, grubs, chinch bugs, etc. shall be made to control lawn insects.

**M. INSECT CONTROL - ORNAMENTALS AND TREES:**

Trees and shrubs will be treated 2 times per year to minimize insect and disease damage. The first application will be in late winter with dormant oil spray to kill overwintering insects and eggs. One supplemental spray with appropriate chemicals will be applied during the growing season to control new infestations. Additional treatments may be necessary, as conditions require at an extra cost.

### **III. IRRIGATION**

#### **A. AUTOMATIC IRRIGATION SYSTEM**

Operation and monitoring of automatic irrigation systems shall be the responsibility of the Contractor.

- 1) Owner will be consulted as to pedestrian traffic patterns and the best time to cycle the system.
- 2) Contractor will adjust and set all spray heads to ensure proper coverage and set individual zones to accommodate the needs of each zone. In late winter, Contractor shall check all systems for proper operation. Lateral lines shall be flushed out after removing the last sprinkler head or two at each end of the lateral. All heads are to be adjust as necessary for unimpeded coverage.
- 3) Any damages to the system caused by Contractor's operations shall be repaired without charge. Repairs shall be made within one watering period.
- 4) Accidental damage not resulting from Contractor's negligence or operations shall be reported promptly to Owner together with an estimate of cost for repairs. Faulty electrical controllers shall be reported to Owner immediately.
- 5) Contractor shall set and program automatic controllers for seasonal water requirements. Owner shall be instructed as to how to turn off the system in case of an emergency. According to Exhibit B (12) irrigation wet checks will be conducted throughout the twelve months of landscape service.
- 6) On properties or portions of properties without an irrigation system, it is the responsibility of Owner to water with hoses and sprinklers. It is the Contractor's responsibility to advise Owner when and which areas need water.

Service Schedule  
Annual Service Schedule 2024-2025

Service	Annual Services	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Grounds Maintenance	42	4	4	4	4	4	3	3	3	3	3	3	4
Lawn Mowing	42	4	4	4	4	4	3	3	3	3	3	3	4
Edging	42	4	4	4	4	4	3	3	3	3	3	3	4
String Trimming	42	4	4	4	4	4	3	3	3	3	3	3	4
Weeding Beds	42	4	4	4	4	4	3	3	3	3	3	3	4
Pruning Shrubs	42	4	4	4	4	4	3	3	3	3	3	3	4
Debris Removal	42	4	4	4	4	4	3	3	3	3	3	3	4
Fertilization	4	0	1	0	0	1	0	0	1	0	0	1	0
Pest Control	2	1	0	0	0	0	0	1	0	0	0	0	0
Seasonal Annuals (Additional)	0	0	0	0	0	0	0	0	0	0	0	0	0
Mulch	0	0	0	0	0	0	0	0	0	0	0	0	0
Tree Pruning (Lifting only)	42	4	4	4	4	4	3	3	3	3	3	3	4
Palms Trimming (Above 12 feet is additional cost)	1 Up to 12 feet	0	0	0	0	0	0	0	0	1	0	0	0
Irrigation Wet Check	12	1	1	1	1	1	1	1	1	1	1	1	1