

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

Membership Agreement

This Membership Agreement is between the Pinebrook Recreation Center, Inc., a non-profit organization registered with the state of Utah ("**PRC**"), and a Member of the PRC (collectively referred to as the "**Parties**"). The Parties agree as follows:

I. Definitions

"**Accepted Membership Agreement**" refers to a membership agreement that has been approved and accepted by the PRC and has not been terminated.

"**Annual Maintenance Fees**" refers to any fees required to be paid by Members for each Business Year to provide for (a) the necessary operating expenses of the PRC, (b) reserves for expected future repairs, maintenance, and reasonable improvements, and (c) any PRC debt service costs (including both principal and interest).

"**Board**" means the PRC Board of Directors who are appointed or elected in accordance with the PRC By-Laws.

"**Business Year**" is the period from May 1st of a calendar year to April 30th of the next succeeding calendar year.

"**Guest**" is an invitee of a Household Member who uses the Pinebrook Pool and is not a Member or a Household Member.

"**Household Equivalent**s" refers to the total number of Memberships determined by applying the following numbers to Memberships in each Membership category: Household = 1, Dual = 0.8, and Single = 0.6.

"**Household Members**" in any Business Year shall include the Member and those individuals who reside in the Member's primary residence for at least 60 days during the Business Year and are designated by the Member as required by the PRC.

"**Member**" means a direct or indirect owner of a Pinebrook Residential Unit who is a party to an Accepted Membership Agreement.

"**Membership**" refers to the status of being a Member; there is only one Membership per Pinebrook Residential Unit.

"**Membership Fees**" means the fees to become a Member in the PRC as set forth in this Membership Agreement.

"**Pinebrook Master Association**" and "**PMA**" refer to the non-profit corporation, chartered under the laws of the State of Utah and initially registered in the office of the Secretary of the State on, or about, November 4, 1991, and governed by By-Laws that were adopted by the Board of Trustees of the corporation on April 18, 1995. The PMA was created to allow for the common control, management and ownership of certain property owned by the PMA and improvements to the property for the benefit of all of the developments that comprise the PMA. The PMA has agreed to lease land to the PRC on a long-term basis for construction and operation of the Pinebrook Pool.

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

“**Pinebrook Pool**” or “**Pool Facility**” refers to the building, swimming pool, children's pool, hot tub and all equipment and appurtenant facilities and land within the fenced area surrounding the building.

“**Pinebrook Residential Unit**” is (a) a single-family dwelling unit (including a condominium or townhome) that is a member of a Pinebrook homeowners association that is a sub-association of the PMA, or (b) has been individually annexed or will be annexed into the PMA before the Member's use of the Pool Facility.

“**Renters**” means tenants who pay rent or otherwise provide consideration to reside in a Pinebrook Residential Unit owned by Member for a period of at least 30 consecutive days in a Business Year, provided that the rental is in accordance with all applicable laws and all applicable homeowner association rules and regulations.

“**Rules**” means this Membership Agreement, rules governing the use and enjoyment of the Pinebrook Pool as updated by the PRC Board from time to time and posted on the PRC's official website or sent to Members, all applicable federal, state and local laws, ordinances and regulations.

With respect to any definitions used within this Membership Agreement, as well as with respect to any other words used within this Membership Agreement, the singular includes the plural and vice versa.

II. Becoming a Member

- A. Signed Membership Agreement. A Membership Agreement Signature Page must be signed and sent via email to pool4pinebrook@gmail.com, or mail or hand delivered to: Pinebrook Recreation Center, Inc., 1389 Center Drive, Suite 200, Park City, UT 84098.
- B. Deposit. A deposit of \$250 (“**Deposit**”) is due within five days of signing this Membership Agreement. The Deposit should be paid by check made payable to “Pinebrook Recreation Center, Inc.” and mailed or hand delivered to: Pinebrook Recreation Center, Inc., 1389 Center Drive, Suite 200, Park City, UT 84098. A prior \$250 deposit satisfies this requirement. **Once funding in the amount of \$1.2 million is obtained through Membership and financing commitments, all Deposits received will become non-refundable. If the pool project is cancelled, partial or full refunds of Deposits shall be paid in accordance with the terms of Section VII below.**
- C. Membership Fees. Members must pay the Membership Fees applicable to their Membership category as required by this Membership Agreement. Membership categories and fees for Members and their Household Members are as follows:
 - “**Single**”. One person (must be an adult). Fee is \$4,000.
 - “**Dual**”. Two people (at least one adult). Fee is \$5,250.
 - “**Household**”. Three or more people (at least one adult). Fee is \$6,500

Membership Fees will be billed and due based on the date construction is anticipated to begin and when funds will be required to pay costs associated with the project. The PRC anticipates two due dates; one prior to construction and one during construction.

- D. Renters. A Member may designate its Renter to utilize the Pool Facility for a temporary period of time which shall not be less than 30 days in place of the Member and the Member's Household in accordance with the Membership category.
- E. Changes To Membership Category. A Member may, at any time, adjust its Membership to a higher Membership category upon payment of the additional Membership Fee and Annual Maintenance

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

fee for the new category (i.e., the difference between the Member's upgraded Membership category and the Member's current Membership category). A Member may adjust its Membership to a lower Membership category for the next Business Year, provided that: 1) a request is submitted to the PRC by the date prescribed by the Board; and 2) after the adjustment, the Household Equivalents will be the same or greater than they were at the start of the current Business Year. The PRC will grant requests for adjustments for lower Household Equivalents in the order received.

- F. Membership Fee Refunds on Termination. Membership Fees are fully refundable upon Membership termination pursuant to Section IV below. Any due but unpaid amounts owed by a Member at the time of refund may be withheld from the Member's refund.
- G. Number of Memberships & Waiting List Exception. Although the PRC does not anticipate limiting the number of Memberships, the PRC may place limits on the number of Memberships based on expected or actual usage and capacity of the Pool Facility. In the event a limit is imposed, a waiting list will be maintained and names placed in the order that signed Membership Agreements are received. However, a purchaser of a founding Member's Pinebrook Residential Unit (the first 185 Household Equivalents to join in 2021) is eligible to join the PRC immediately upon the departing Member's termination without being placed on a waiting list.

III. Annual Maintenance Fees

- A. General. Members are responsible for paying Annual Maintenance Fees. Annual Maintenance Fees shall be set annually by the Board.
- B. Amount of Initial Annual Maintenance Fee. Maintenance Fees for the first Business Year the Pool Facility is open will be as follows:

	Membership Category		
	Single	Dual	Household
Annual Maintenance Fee Due Prior to Pool Opening	\$585	\$785	\$985

If the pool opening is expected to be substantially later than June 1st then the PRC Board will review and determine in good faith whether the Annual Maintenance Fee for the first Business Year can be reduced.

- C. Special Assessments. Special assessments may also be imposed from time to time by the Board as shall be required for unanticipated repairs or reasonable capital improvements to the Pool Facility, provided, however, for capital improvements only, the special assessment for any Member for any Business Year shall not exceed the Annual Maintenance Fee for the prior Business Year.
- D. Annual Maintenance Fee Refunds on Termination. If a Membership is terminated between May and August, then Annual Maintenance Fees for that Business Year will be partially refundable as follows: 90% if terminated in May; 55% if terminated in June; 20% if terminated in July.

IV. Membership Termination

- A. Voluntary Membership Termination Procedures. Members wishing to terminate their Memberships must complete and submit the form required for Membership termination available on the PRC's official website.
- B. Termination Effective Date. A Membership termination request will be granted as long as the Household Equivalents after the Member's termination will be the same or greater than at the

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

beginning of the Business Year. Termination requests that cannot be granted when submitted will be processed in the order received when Household Equivalents are sufficient. Members remain obligated to pay Annual Maintenance Fees and any other fees due from Members until termination is effective, even if the Member ceases to own directly or indirectly a Pinebrook Residential Unit.

- C. Continued Use Prohibited. Once a Membership has been terminated, the Member's privileges and access (and the Member's Household Members, Renters and Guests) to the Pinebrook Pool will be discontinued.

V. Member Duties and Obligations

- A. Duty to Follow Rules. Members shall comply with all Rules and are responsible for their Household Members, Guests and Renters' compliance with all Rules. Members shall reimburse the PRC for any PRC property that may be taken, broken or damaged by Member, Household Members, Guests and Renters. Members are responsible to pay all fees and all other charges that may be imposed upon, or incurred by them or the Member's Household Members, Guests and Renters.
- B. Guest Policy. Guest policies will be included in the Rules. The Guest policies may include Guest fees and Guest limits.
- C. Payment of Fees. Members must timely pay all fees due pursuant to the terms of their Accepted Membership Agreements or use of the Pool Facility will be suspended.
- D. Non-Solicitation. Members shall not advertise or solicit other Members for business or political purposes at the Pinebrook Pool or utilize Membership information for those purposes, except in either case with the prior consent of the Board.
- E. Household Certification. Members are required to designate their Household Members or Renters and provide names, ages, phone numbers, and email addresses, as required by the Board.
- F. Waiver of Liability and Indemnity. Member recognizes that there are risks inherent in the use of the Pinebrook Pool. By their use and enjoyment of the Pinebrook Pool, all Members, Household Members, Guests and Renters assume those risks, recognizing that the decision to use the Pinebrook Pool is solely that of each Member, Household Member, Guest and Renter. The PRC shall not be liable to Members, Household Members, Guests or Renters for any loss or damage to personal property brought onto or left at the Pinebrook Pool, the parking lots, walkways or any property related or appurtenant to the Pinebrook Pool, regardless of whether the losses or damages were caused by the negligence of PRC, members of the Board, PRC employees, or PRC agents. The PRC shall not be liable to Members, Household Members, Guests or Renters for any claims, demands, damages, or any cause of actions due to injury to or death of Member, Household Members, Guests or Renters in connection with the use and enjoyment of Pinebrook Pool, the parking lots, walkways and any property related or appurtenant to the Pinebrook Pool, regardless of whether the injury or damages were caused by the negligence of PRC, members of the Board, PRC employees, or PRC agents. By executing this Membership Agreement, Member agrees to jointly indemnify and hold the PRC harmless from any and all claims which may be brought against the PRC by the Member or the Member's Household Members, Guests or Renters regardless of whether the applicable individual has signed a Waiver of Liability and Indemnity Agreement form that shall be required by the PRC. Member also expressly agrees to be jointly responsible for and upon demand reimburse the PRC, members of the Board, PRC employees, or PRC agents, as applicable, for any and all attorneys' fees and legal costs incurred by or on behalf of the PRC, members of the Board, PRC employees, or PRC agents as a result of any legal action initiated by the Member or the Member's Household Members, Guests or Renters against the PRC, members of the Board, PRC employees, or PRC agents.

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

- G. Waiver Requirement. Member shall ensure that each Household Member, Guest, and Renter signs a waiver of liability and indemnity agreement prior to accessing the Pinebrook Pool.

VI. Fines & Penalties, Suspension & Involuntary Termination

- A. Fines & Penalties. The PRC Board shall have the right to determine reasonable monetary and non-monetary penalties, including suspension of usage privileges or Membership termination, to be imposed for violations of the Rules by the Member, Household Member, Guests and Renters, or failure to pay any amounts due after 30 days of notification of the delinquency.
- B. Suspension. Any suspension of the rights to use the Pinebrook Pool may be indefinite in length, and during any suspension period, the Member shall remain obligated to pay any Membership Fees still owed, and Annual Maintenance Fees and any other fees due pursuant to the terms of the Member's Approved Membership Agreement.
- C. Involuntary Termination. The PRC may terminate a Member's Membership for cause upon majority vote by the Board. Cause shall include failure to pay fees for 30 days after notification of the delinquency. Upon termination for cause, refunds will be made in accordance with Sections II (E) and Section III (D) above.

VII. Cancellation of Project

- A. Membership Threshold Not Met. If funding sufficient to cover the construction budget is not obtained through Membership and financing commitments by August 31, 2021, then the project will not be funded or built and all Fees (if any) and Deposits shall be promptly refunded.
- B. Construction Has Not Commenced. If required building permits have not been received or construction has not commenced by July 31, 2022, then the Pinebrook Pool will not be built. If that circumstance should occur then all Membership Fees paid by Members, excluding the non-refundable Deposits, shall be promptly refunded.
- C. Potentially Refundable Deposits. If the project is cancelled for any reason and the PRC still has funds on hand from the non-refundable Deposits after settling all of its obligations, then those funds shall be refunded on a pro-rata basis to those who are Members at that time.
- D. Termination of Accepted Membership Agreements. The PRC shall have the right to terminate all Accepted Membership Agreements after the PRC refunds Membership Fees and any remaining funds from non-refundable Deposits to Members pursuant to Sections VII (A) or (B) and (C) above.

VIII. General Provisions

- A. Accounting. All amounts owed by Members to the PRC shall be made payable to the "Pinebrook Recreation Center, Inc." and deposited into an account maintained with a reputable financial institution as determined by the Board. The annual budget and the most recent annual financial statements will be shared with the Membership on an annual basis. A Member may make reasonable requests in writing to the PRC during the year to see the most recently available interim financial statements.
- B. Offset of Refunds. The PRC may reduce any refund owed to a Member by the amount the Member owes the PRC, the PMA, or any other homeowners associations that are included in the PMA that remain unpaid at the time the refund is issued. The PRC will forward any amounts withheld on behalf of the PMA or the other homeowners' associations to them.

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

- C. Restricted Transferability. Except as provided in the PRC By-Laws and the waiting list exception in Section II (F), Members shall not have the right to sell or transfer their Memberships.
- D. Assignment of Agreement. Neither Party may assign this Membership Agreement or any rights, obligations, or payments unless, in advance of the assignment, the written consent of the non-assigning Party is obtained.
- E. Force Majeure. Upon the occurrence of a force majeure event including, but not limited to fire, acts of God, war, governmental action, terrorism, epidemic, pandemic or any other event beyond the PRC's control, the Parties shall still be required to pay amounts owing to each other when due, but the PRC's other duties and obligations, including but not limited to permitting Members to use the Pinebrook Pool, may be suspended immediately upon notice.
- F. Notices. Notices to the PRC shall be made to the address on the PRC's official website. Notices to Members will be sent by mail or email to the most recent address that is in the PRC's records. Email and hand delivered notices to either Party shall be effective on the next Business Day. Mailed notices to Members are effective when received, but in any event will be deemed to have been received five days following the date of mailing. Any notice sent by FEDEX, UPS, USPS Priority Mail or similar service shall be effective when delivered. A "Business Day" shall be any day other than a Saturday, Sunday or public holiday.
- G. Applicable Law, Venue and Dispute Resolution. This Membership Agreement is governed by Utah law and any legal action will be filed only in the State of Utah. In the event of a dispute, the prevailing Party shall be entitled to recover all expenses, including reasonable attorney fees and costs, arising out of the dispute.
- H. Entire Agreement. This document contains the entire agreement between the Parties. This Agreement supersedes all previous agreements, whether verbal or written. There are no covenants, representations, or warranties, express or implied, unless expressly set forth in this Membership Agreement. This Membership Agreement is binding upon the permitted successors and assigns of the Parties and may not be amended except in a writing signed by the Parties. If any term of this Membership Agreement is held to be illegal or in conflict with Utah law, the validity of the remaining portion shall not be affected, and the rights and obligations of the Parties shall be construed as if the Membership Agreement did not contain the particular term held to be invalid. If the Parties sign and exchange only the signature page of this Membership Agreement, this Membership Agreement shall nonetheless be effective as if the Parties had signed and exchanged all pages of this Membership Agreement.
- I. Counterparts. This Membership Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement. Counterparts may be executed in either original or electronically transmitted form (e.g., faxes or emailed portable document format (PDF) form), which shall be accepted as if they were original execution signatures.
- J. Authority. Each person signing this Membership Agreement agrees individually to all of the terms and conditions in this Membership Agreement applicable to a Member. The person signing this Membership Agreement on behalf of the PRC represents and warrants that the person has full legal capacity, power and authority to execute this Membership Agreement for and on behalf of the PRC and to bind the PRC to all of the terms and conditions in this Membership Agreement.

Pinebrook Recreation Center, Inc.

The Pool at Pinebrook

Membership Agreement Signature Page

1. I have read the Pinebrook Recreation Center, Inc. Membership Agreement and by signing below I agree to all of its terms and conditions.
2. I request the following Membership category (please check one box only):

Single Dual Household

Signature of Member

Date Signed

Name of Member

Cell Phone Number

Email Address

Signature of Member
(if more than one)

Date Signed

Name of Member

Cell Phone Number

Email Address

Pinebrook Residential Unit Address

Mailing Address (if different)

Email this page to pool4pinebrook@gmail.com and send Deposit (if not previously paid) within 5 days to Pinebrook Recreation Center, Inc., 1389 Center Drive, Suite 200, Park City, UT 84098.

The Pinebrook Recreation Center, Inc. approves and accepts each individual listed above as a Member of the PRC with the Membership category checked above.

PRC Signature

Name & Title

Date Signed