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North Raleigh Swim Club

2020 and 2021
Staff Contract
(Two Lifeguards)

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SWIMMING POOL MANAGEMENT AGREEMENT

This SWIMMING POOL MANAGEMENT AGREEMENT (the "Agreement") made and entered into this 5th day of May 2020, by and between **North Raleigh Swim Club**, with an address Post Office Box 99803, Raleigh, North Carolina, 27624 (the "Owner") and **Pool Professionals of the Carolinas, Inc.**, with an address at P.O. Box 91602, Raleigh, North Carolina 27675 (the "Manager").

RECITALS:

- A. Owner desires the services of Manager for the purposes of managing 150,000 gallon, "L" shaped pool with diving board located at 8105 Haymarket Lane, Raleigh, North Carolina 27615 (the "Pool") and for such other services as described in this Agreement, which are operated as the North Raleigh Swim Club (the "Club").
- B. Manager desires to perform such duties in connection with the management of the Pool and for such other services as described in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, it is agreed as follows:

- 1. **SPRING INSPECTION.** Manager will make a complete evaluation of the plumbing, the condition of the Pool, and the condition of the deck equipment to be used in the operation of the Pool as soon as possible after the execution of this Agreement, but not later than April 1 of each year of this Agreement.
- 2. **TERM.** The term of this contract shall extend for two (2) years from January 1, 2020 to December 31, 2021.
- 3. **OPERATIONAL DAYS, HOURS, AND COVERAGE.** Manager's services shall be provided during the time when the Pool is open to the membership as set forth below and as may be required to fulfill Manager's obligations hereunder. Manager shall not be responsible for the Pool when the Club is closed and the Manager's staff is not performing duties under this Agreement and during any other time when the services of the Manager have not been requested by the Owner. For example, night security and private parties not under the supervision of the Manager are responsibilities of the Owner and any injury or damage to the Pool and the Facility during such times is the sole obligation of the Owner.
 - a. Pool to be open on Friday, May 30, 2020 and to close on Sunday, September 20, 2020 and open on Friday May 14, 2021 and close on Sunday, September 19, 2021.
There will be Two (2) Lifeguards on Duty at all times.
There will be Four (4) Maintenance Only Days when Wake County Traditional School are in session in September.
Manager will ensure that the pool is inspected two (2) times per day by a CPO technician; this includes time periods when the pool is not open for a full day of operation (e.g., Weekdays May 15 through June 12, 2020).
The Days, Hours and Coverage for the Lifeguards for 2021 will be comparable to 2020.
Please refer to the attached 2020 Customer's Schedules for exact hours and days.
 - b. Manager has the sole and ultimate discretion to coordinate staff members during the day to day operational hours of the Facility. Manager will have sole and complete authority to make adjustments for safety, actual pool usage, labor efficiency and actual pool capacity on a day to day basis. If it is deemed staffing and operational changes are needed on a permanent basis Manager and Owner will consult in order to make a joint decision.
 - c. The Owner shall be responsible for the discipline of its members. Immediate action may be taken by the Manager in the event any member is acting in a manner disruptive to the operation of the Pool, and the Owner grants Manager the right to remove from the Pool or surrounding area, anyone who is acting in such a manner or exhibiting any more serious conduct.

- d. When pool is open to membership, the pool season can be extended or shortened by written request by Owner. Manager requires a minimum of two (2) week notice and receipt of a signed addendum stating change. Requests received giving less than two (2) week notice will incur \$ 250.00 and will be contingent upon staffing availability.
- e. Request for Staffing (lifeguards or attendants) will be available thirty (30) days from the written receipt of the signed addendum before July 1 for the current year. The thirty (30) days are in order to complete the in-season hiring and training process for your facility.

Request for Staffing after July 1 for the current year will be evaluated on a case by case basis so that Manager can assess the available personnel.

Upon receipt of signed staff addendum, the Owner will provide Manager the current copy of pool rules and resident list. Owner will keep Manager updated on any change to pool rules and resident list.

- 4. **OPERATIONAL CONDITIONS.** During all operational hours, a Pool Manager or Assistant Pool Manager will remain on site. Each lifeguard will have a ten (10) minute break at fifty (50) minutes past the hour except concession person. While on duty, lifeguards will be stationed in guard chairs only.
- 5. **ACCESS AND UTILITIES.** The Owner will permit and maintain free access to the pool sites and, prior to April 1, Owner will provide two (2) sets of keys to Manager to open any and all locks required to operate the pool. Manager shall keep and safeguard keys and release keys only to authorized personnel. NOTE: If Owner changes locks at pool site, two (2) sets of keys should be supplied to Manager within three (3) working days.

Owner further agrees to furnish without cost to Manager:

- a. Water
 - b. Electricity
 - c. 110 volt electrical outlet in pump room
 - d. Garbage pick-up service
 - e. Fully stocked first-aid kit
 - f. Telephone
 - g. Lifeguard stands and umbrellas for lifeguards
 - h. Complete written copy of pool rules
- 6. **TELEPHONE.** Owner shall be responsible for providing an operational telephone (not a pay phone) accessible to Manager's personnel at pool site by March 1 of each year. Consistent with health department regulations and for safety reasons the pool will only be open when the pool telephone is operational.
 - 7. **DESCRIPTION OF POOL SERVICES.** Manager agrees to provide the following services in connection with the opening of the Pool:
 - a. Complete check of all exposed plumbing.
 - b. Inspect and start water heating system.
 - c. Test and check all exposed parts of filter system.

- d. Clean deck area and area along inside of fence perimeter.
- e. Remove from storage, clean and install all furniture prior to opening Pool.
- f. Remove from storage, clean, and install diving board.
- g. Prepare bathhouse for operation.
- h. Install all existing deck equipment.
- i. Recirculation of water through filtration and treatment equipment.
- j. Chemically treat and backwash filter systems as many times as necessary to have Pool ready for operation.
- k. Confirm availability of first aid kit.
- l. Vacuum Pool.

All of the above activities will be completed at least four (4) days prior to the opening of the Pool. Manager will also obtain any and all certificates required by any regulatory authorities and departments, with the exception of any use permits, which will be obtained by Owner. All fees charged by such authorities will be paid by the Owner.

- 8. **POOL EQUIPMENT AND REPAIRS.** Owner shall provide all maintenance equipment and Owner will supply Manager with an inventory of such equipment. If an inventory is not available, Manager will provide an inventory of the maintenance equipment and pool equipment. All equipment must be in good working condition.

<u>Pool Equipment</u>	<u>Safety Equipment</u>	<u>Other Equipment</u>
Pool Vacuum Head	Signs:	Broom
Vacuum Hose	Pool Rules	Dust Pan
Pool Brush	No Lifeguards	Mop (if applicable)
Leaf Blower	No Diving	Scrub Brush
Skim Net	First Aid Kit	Bucket
Extension Pole	Ring Buoy(s) & Rope	Spray Nozzle
Water Test Kit	Life Hook(s) & Pole(s)	Roll Out-Trash Bin
Winterizing Plugs	Fire Extinguisher	Trash Receptacles
		Water Hose(s)

Owner shall be responsible for repairs or replacements of defective equipment and for the repair of unsafe conditions. Manager shall make minor repairs, replacements and correct unsafe conditions immediately with Owner's approval for amounts over \$ 100.00. Major repairs are to be performed only if there is a prior agreement to that effect with Owner. In all cases, the Owner will pay the costs of repair upon delivery of the bill. Manager shall have total and sole discretion in matters requiring emergency attention.

Manager shall be responsible for repairs or replacements of equipment damaged by negligent use by Manager's personnel. Manager will not be liable for fatigued equipment or mechanisms that are damaged by incidental contact or normal operation. Manager shall repair, replace or correct any damaged equipment as soon as practical, if Manager is responsible.

- 9. **DAILY OPERATIONS.** Manager agrees to provide the following services with respect to the daily operations and maintenance of the Pool:
 - a. Test water in Pool two (2) times per day to insure the proper chemical balance according to the standards of any and all local health authorities.

- b. Purchase and add the necessary chemicals to maintain proper water chemistry balance throughout the swimming season.
- c. Vacuum Pool regularly or as needed.
- d. Remove algae and stains as they appear.
- e. Clean deck area and along inside of fence perimeter daily.
- f. Remove garbage from garbage receptacles daily.
- g. Clean bathhouse daily, and, as needed, during open hours.
- h. Place garbage and recyclable materials at the garbage collection point on the designated day. Retrieve containers after collection has been completed.
- i. Backwash filter system as needed.
- j. Enforce all rules and regulations of the Pool.
- k. Maintain and keep records as required by proper health authorities.
- l. Maintain records as reasonably required by Owner.

10. **POOL PERSONNEL.** Manager and Owner agree to the following conditions concerning Pool personnel:

- a. Individuals who are providing services pursuant to this Agreement shall be employees or independent contractors of the Manager and not the Owner.
- b. Manager will hire all personnel. Manager and Owner will work together in selection of personnel, if necessary. Owner has the right to make suggestions and recommendations to Manager; however, the final decision regarding hiring personnel shall be at the sole discretion of the Manager.
- c. Manager will discharge any incompetent, uncooperative, or otherwise unqualified employee. Owner shall have the right to request the discharge of any employee for any of the previously mentioned reasons. Manager must make a fair and just decision. If, for any reason, an employee is discharged, the employee will not remain on the Owner's premises after receiving the discharge notice.
- d. Owner shall not be responsible for the payment of wages, taxes and other related costs to all Pool employees and for the maintenance of workmen's compensation insurance for Pool employees.
- e. Manager will confirm that all Pool employees shall hold current Lifeguard, CPR, and Community First Aid and Safety certifications. First aid and rescue techniques will be open to the training and certifications granted by the American Red Cross, Boy Scouts of America, YMCA, and YWCA Life Guard Training, CPR, and standard first aid training.
- f. During the term of this Agreement and for a period of one (1) year following termination of this Agreement, Owner covenants and agrees not to solicit, recruit or induce any employee or independent contractor of Manager to terminate his or her employment or contractor relationship with Manager.

If it is deemed necessary, as the season progresses, to add additional personnel, this will be determined by agreement between Owner and Manager. Expenses for the additional personnel will be arrived at by mutual consent, and any such additional personnel expenses shall be in addition to the fees stated in this Agreement.

11. **POOL SUPERVISION.** Manager will hire a Pool Manager, who shall be in charge of field operations during the swimming season and who will supervise the Pool personnel. The Pool Manager will also coordinate and discuss any problems or questions that arise between the Manager and Owner. This Pool Manager in no way means that the Board of Directors cannot communicate with the Manager at any given time. The Manager is always available to the Board of Directors. Manager shall also provide for an Assistant Pool Manager when the Pool Manager is off-premises during hours of pool operation. The Pool Manager and Assistant Pool Manager may be one of the Lifeguards on duty. Manager's representatives shall make physical inspections of the Pool and facilities periodically during the operating hours of the Pools throughout the current swimming season to ensure that the Pool is operated in a clean, safe, healthy and sanitary manner.

12. **SPECIAL SERVICES.** Manager shall provide the following special services if they are preceded with a "YES".

YES a. Furnish personnel for any special activities or private parties that are scheduled during pool operating season as described in this Agreement. Lifeguards to be provided by and paid directly by Manager, according to the following conditions:

One (1) Lifeguard for up to twenty (20) people; two (2) Lifeguards for up to fifty (50) people; three (3) Lifeguards for up to One Hundred (100) people. Manager shall determine the size of the staff for any group in excess of One Hundred (100) people. The cost for these special events will be an initial \$10.00 charge and \$15.00 per hour per lifeguard and will include the time spent cleaning up after use by any special group.

Manager must be notified in writing by Owner or by member at least one (1) week in advance of any special parties or activities before any personnel can be provided. Billings for all special parties or activities shall be made to the Owner at its address and shall be due and payable upon delivery. Otherwise, members scheduling special events are required to pay the estimated fee, in cash, four (4) days or more prior to the event. Event reservation forms are provided by the Manager.

YES b. Provide paper towels, soap, and toilet paper for shower rooms and lavatories.

YES c. Provide first-aid supplies, as needed to keep first-aid kit stocked with proper contents.

NO d. Administer the salaries of the Swim Team's Coach and Assistant Coach. The cost of the administration by Manager will be Twenty Five Percent (25%) of the salaries paid, which fee shall cover all costs for the administration of their salaries. All costs associated with this service will be borne by and be billed to the Swim Team.

YES e. Coordinate operation of the Swim Team with Owner. Owner will hold three (3) home swim meets and one (1) time trial during the season and Manager will provide staffing as necessary during hours of the swim meet. Owner will coordinate with Manager as to setting up for, and cleaning up after, the swim meets.

NO f. Operate a concession stand and/or provide vending concessions on the premises for the sale of food and nonalcoholic beverages, the costs of operation and provision of food shall be paid by the Owner.

- YES g. The Club Swim Team will have exclusive use of the Pool during the hours listed below. At least one Swim Coach at each practice must have current American Red Cross Lifeguard Certifications. The Owner is responsible for swimmers during swim team practice and meets while under the coach's supervision.

8:30 a.m. until 11:00 a.m. Monday through Friday until after TSA season is complete.
3:00 p.m. until closing during home swim meet nights.

If "No" is listed by (g) above, the Owner will operate and be responsible for all concessions and vending machines.

13. **CLOSING OF POOLS.** Manager and Owner agree to the following concerning closing the pools:

- a. Manager shall have the sole authority to close the Pool because of inclement weather or other unsafe conditions.
- b. In the case of a fecal accident in the Pool the Owner may be charged \$150.00 per accident for additional chemicals and required cleaning at Manager's discretion.
- c. Additional reasonable charges for cleanup required as the result of vandalism, and approved by the Owner, shall be paid by the Owner to the Manager. Any vandalism shall be reported to the Owner's designated representative immediately upon discovery.

14. **WINTERIZATION OF POOL.** Manager agrees to use all due and reasonable care in proper winterization of the Pool and all water filtering and treatment equipment and will assume all responsibility for freezing and/or water damage resulting from Manager's neglect. Owner shall be responsible for winterization of the Clubhouse.

The following services will be provided in respect to winterizing the Pool:

- a. Clean, inspect, organize and store portable deck equipment.
- b. Clean, inspect, remove and store all diving boards.
- c. Clean, inspect, organize and store all cleaning and safety equipment, e.g., skimmer baskets, nets, ring buoys.
- d. Clean, inspect, drain, and store all hoses.
- e. Clean deck area and area along inside of fence perimeter.
- f. Shutdown water heating system.
- g. Remove all drain plugs from plumbing.
- h. Winterize fixtures and fresh water lines.
- i. Backwash filters and inspect for proper operation.
- j. Prepare inspection form along with estimated costs for repairs or suggested changes for Owner.
- k. Conduct walk-through inspection with Owner and/or agents of Owner.
- l. Make monthly winter inspection of all facilities.
- m. Install Pool Cover.

15. **INSURANCE.** Manager will carry workmen’s compensation insurance on all of its employees. Manager will carry public liability insurance with limits of at least One Million Dollars (\$1,000,000.00) per occurrence and bodily injury and property damage with at least One Million Dollars (\$1,000,000.00) per occurrence. It is the responsibility of the Owner to provide all other insurance coverage for the facility and the Pool.

EXCLUSIONS:

- a. **Injuries to Athletic Participants and Officials Exclusion.** Manager shall not be responsible for damage to any person while practicing for, participating in, or officiating at any sports or athletic contest or exhibition sponsored, conducted or directed by Owner.
- b. **Liquor Liability.** Manager shall not be responsible for any “bodily injury” or “property damage” by reason of (1) causing or contributing to the intoxication of any person; (2) the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or (3) any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages. In the event Manager incurs any liability in connection with the foregoing, Owner shall indemnify Manager for all losses, including costs and attorneys’ fees, resulting therefrom.

16. **STANDARD POOL FEES AND PAYMENT.** Owner will pay Manager in full for services rendered as outlined in this Agreement. The total annual fee of Forty Thousand Seventy Two Dollars (\$ 40,072.00) shall be due for the 2020 and 2021 season. A payment of Ten Percent (10%) or Eight Thousand Fifteen Dollars (\$ 8,015.00) shall be due upon acceptance and shall be payable no later than May 20, 2020, as shown on the schedule below. All subsequent payments will be made in installments and are due as follows:

2020 Schedule		2021 Schedule	
January 1, 2020	\$ 0.00	January 1, 2021	\$ 4,008.00
February 1, 2020	\$ 0.00	February 1, 2021	\$ 0.00
March 1, 2020	\$ 0.00	March 1, 2021	\$ 0.00
April 1, 2020	\$ 0.00	April 1, 2021	\$ 6,011.00
May 20, 2020	\$ 8,015.00	May 1, 2021	\$ 6,011.00
June 1, 2020	\$ 8,015.00	June 1, 2021	\$ 6,011.00
July 1, 2020	\$ 8,014.00	July 1, 2021	\$ 6,011.00
August 1, 2020	\$ 8,014.00	August 1, 2021	\$ 6,010.00
September 1, 2020	\$ 8,014.00	September 1, 2021	\$ 6,010.00
October 1, 2020	\$ 0.00	October 1, 2021	\$ 0.00
November 1, 2020	\$ 0.00	November 1, 2021	\$ 0.00
December 1, 2020	\$ 0.00	December 1, 2021	\$ 0.00

17. **INDEMNIFICATION.** Manager shall not be liable for any injury or injuries to persons or property, other than those that are proximately caused by the gross negligence of the Manager, its employees, agents or independent contractors. Owner shall be responsible and shall indemnify Manager against liability for any and all damage, including all costs and attorneys’ fees, except to the extent such liability is proximately caused by the gross negligence of Manager.

18. **DEFAULT.** Owner and Manager agree the following conditions constitute default of this Agreement:

- a. If the Manager does not perform its duties under this Agreement, the Owner may terminate this Agreement following written notification to the Manager outlining the cause of the default and affording Manager a ten (10) day right to cure. Owner can terminate this Agreement at any time if Owner has contacted Manager by phone or written notification of any default and Manager has not responded within seven (7) calendar days.

- b. If the Owner is more than fifteen (15) days delinquent in any payment hereunder, Manager may, after ten (10) days terminate this Agreement and withdraw all personnel with no further responsibility. If Owner defaults on payment Manager is entitled to interest at Eighteen Percent (18%) per annum and shall be entitled to recover costs and attorneys' fees. If the default shall occur during the summer season beginning in June and extending through August, the Owner shall be responsible for thirty (30) days of salary and benefits for all staff not placed in other facilities.
- c. In the event any facility within the Pools' operation, the Pools, or bathhouses is deemed to be unsafe, unsanitary, or unsuitable for Owner's use by any regulatory authority with jurisdiction over the Pools, through fault of Manager and no fault of Owner, Owner will have the right to withhold any and all payments to Manager until such condition has been corrected to the satisfaction of the governing authority.

19. **MISCELLANEOUS PROVISIONS.** This Agreement may be amended or modified only by the written consent of the Manager and Owner. Any such change shall become effective only when the written Agreement has been executed by both parties.

This Agreement embodies the entire agreement and understanding of the parties and supersedes all prior agreement, understandings, representations and discussions.

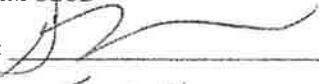
This agreement shall apply to and bind the heirs, executors, administrators and assignees of the Company and shall bind the Club, Club's heirs, executors, administrators, successors, and assignees.

This Agreement shall be governed and construed under the laws of the State of North Carolina.

This Agreement and all amendments may be considered null and void if not executed and returned to Owner by Manager prior to May 20, 2020. This Agreement shall commence when fully executed and shall be valid and enforceable until December 31, 2021.

IN WITNESS WHEREOF, the Owner and the Manager sign this Agreement as of the date first stated.

OWNER:
NORTH RALEIGH
SWIM CLUB

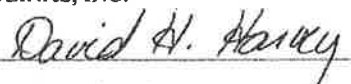
BY: 

NAME: Irish King

TITLE: operations

DATE: 5/14/20

MANAGER:
POOL PROFESSIONALS OF THE
CAROLINAS, INC.

BY: 

NAME: David H. Harvey

TITLE: President

DATE: May 11, 2020

