

THIS AGREEMENT between CPO Pools (the "Company") and McKinley Mill HOA (the "Customer"),

is to provide for cleaning, water chemistry maintenance, and assisting Customer with monitoring entrance into the pool area by the Company at the Customer's pool located at, **3508 Pritchard Drive, Raleigh, North Carolina** in accordance with the specifications, conditions, and terms set forth herein.

1. EFFECTIVE DATE This Agreement, when executed by both parties hereto, shall become effective upon **signing of the agreement for the 2022/2023 pool years extending from May 21, 2022, through September 11, 2022 and May 20, 2023 to September 10, 2023.**

2. PROPOSAL EXPIRATION OPTION. This contract is voidable at the Company's option if not executed by the Customer and returned to the Company by **March 1, 2022.**

3. COMPANY'S INDEPENDENT CONTRACTOR STATUS. Company is, and at all times shall be deemed to be, an independent contractor in the performance of services under this agreement. Company and its representatives are not, and shall not be considered or permitted to be, employees, agents, servants, joint ventures or partners of Customer.

4. ACCESS AND UTILITIES. The Customer will permit and maintain free access to the pool site and, upon signing Agreement, Customer will provide six (6) sets of keys to Company to open any and all locks required to operate the pool, Company shall keep and safeguard keys and release keys only to authorized personnel. Keys shall be returned to Customer in the event of termination of this Agreement.

Customer further agrees to furnish without cost to Company:

- (1) Water.
- (2) Electricity.
- (3) 110-volt electrical outlet in pump room.
- (4) Garbage pick-up service.
- (5) Lifeguard stand(s) and umbrella(s) for lifeguard stand(s).
- (6) Telephone.
- (7) A secure and cooperative working environment at Customer's pool.

5. TELEPHONE. Customer shall be responsible for providing an operational telephone (not a pay phone) accessible to Company's personnel at pool site. Consistent with health department regulations and for the safety of pool patrons the pool will only be open when the pool telephone is operational.

6. OPENING. Company agrees to make pool "ready to swim" by completing the following services, where applicable:

- (a) Start up equipment

- (b) Order, store, and inject all necessary chemicals to establish proper levels for:
 - free chlorine
 - total alkalinity
 - pH
 - calc. hardness
 - cyanuric acid
- (c) Vacuum pool.
- (d) Clean pool enclosure area.
- (e) Inspect chemical feeders.
- (f) Inspect all filtration equipment.
- (g) Inspect flow meters, pressure gauges, and valves.
- (h) Mount diving boards, guard chairs, and ladders.
- (i) Remove pool furniture from storage, clean, set out around pool area.
- (i) Thoroughly clean bathhouse.
- (k) Inspect and re-supply water testing supplies.
- (l) Inspect underwater lights.
- (m) Perform requisite repair work as needed and authorized by Customer (see "Repair Work").
- (n) Remove, clean, and store Customer's pool cover at Customer's pool.
- (o) Drain and clean pool, if applicable (for an additional cost)

At the Customer's request, Company will walk-through with a representative of the Customer prior to opening to develop a list of items needed for operation of the pool and to review items identified by the Health Department as deficient from the previous year. Company shall stand ready, at the Customer's request, to perform repairs needed for compliance with Health Department regulations. The cost for any such repairs shall be additional to the price of this Agreement.

7. **POOL OPERATION.** Company agrees to furnish Attendants (not Lifeguards) and other personnel as required to staff the pool on the following schedule:

DATES OF OPERATION:

The pool will be open on the following days:

May 19 through September 11, 2022

REGULAR HOURS OF OPERATION:

Pool access for residents via FOB begins at 6:00am during normal dates of operation.

The pool to be staffed during the following hours:

First Week Operation: Saturday May 21 - Friday May 27, 2022

Saturday	10:00a.m. to 9:00 p.m.
Sunday	12:00p.m.to 8:00 p.m.
Monday	4:00 p.m. to 8:00 p.m.
Tuesday	4:00 p.m. to 8:00 p.m.
Wednesday	4:00 p.m. to 8:00 p.m.
Thursday	4:00 p.m. to 8:00 p.m.
Friday	4:00 p.m. to 9:00 p.m.

School Day Operation: May 28 - June 10, 2022

Saturday	10:00 a.m. to 9:00 p.m.
Sunday	12:00p.m. to 8:00 p.m.
Monday	12:00p.m.to 9:00 p.m.
Tuesday	12:00p.m.to 9:00 p.m.
Wednesday	12:00p.m.to 9:00 p.m.
Thursday	12:00p.m.to 9:00 p.m.
Friday	12:00p.m.to 9:00 p.m.
Memorial Day	10:00a.m. to 8:00 p.m.

Normal Day Operation: June 13 - August 26, 2022

Saturday	10:00 a.m.to 9:00p.m.
Sunday	12:00 p.m.to 8:00p.m.
Monday	10:00 a.m.to 9:00p.m.
Tuesday	10:00 a.m. to 9:00 p.m.

Wednesday	10:00 a.m.to 9:00p.m.
Thursday	10:00 a.m. to 9:00p.m.
Friday	10:00 a.m. to 9:00 p.m.
Holidays	10:00 a.m. to 9:00 p.m.

School Day Operation: August 29 — September 11, 2022

Saturday	10:00 a.m.to 9:00p.m.
Sunday September 5	12:00 p.m.to 8:00p.m.
Sunday September 10	12:00p.m. to 6:00p.m.
Monday	4:00 p.m. to 8:00 p.m.
Tuesday	4:00 p.m. to 8:00 p.m.
Wednesday	4:00 p.m. to 8:00 p.m.
Thursday	4:00 p.m. to 8:00 p.m.
Friday	4:00 p.m. to 8:00 p.m.
Labor Day	10:00 a.m.to 6:00p.m.

STAFFING:

One (1) Pool Attendant will be provided during hours of operation specified above.

POOL SAFETY. The Company is not providing Lifeguards and takes no responsibility for safety at the Customer's pool. Company shall not be responsible for any injury or loss resulting from use of the pool. Company agrees to maintain the pool and, where the necessary pump, filter, and chemical feeders are in place, to maintain water chemistry. Customer agrees to indemnify and hold Company harmless from and all claims for damages or injuries, or both resulting from the utilization of the Customer's pool, except those claims for damages or injuries resulting from the negligence of the Company and its employees.

VANDALISM. Additional reasonable charges for cleanup required as the result of vandalism, and approved by the Customer, shall be paid by the Customer to the Company. Any vandalism shall be reported to the Customer's designated representative immediately upon discovery.

SUPERVISION. Company management personnel will inspect the pool at least twice each week during the full-time operation of the pool. Additional inspections and/or visits to the pool will be made by Company's management personnel as needed in order to assure Customer's satisfaction.

POST LABOR DAY. At the request of the Customer, the Company may, if staff is available, staff and maintain the pool and provide all necessary services to allow swimming with an Attendant on duty after September 10. The Customer will notify Company on or before August 10 concerning post-Labor Day openings. The cost for post-Labor Day operation shall be billed to the Customer at the prevailing rate, which may change from year to year. The current cost is \$50.00 for each day (including days the pool is closed) from Labor Day through the final day the pool is open for swimming, plus \$16.00 per Attendant hour for time worked on or before September 18. The cost for Attendant hours worked after September 18 is currently \$30.00 per attendant hour. Amount shall be payable to the Company on the initial day of post-Labor Day operation. This cost is to be extra to the contract in addition to the fees as provided hereinafter.

RAIN DAYS. On rainy days, if the weather is still unsuitable for swimming at 6:00 p.m., the pool will be closed for the day. Company shall have the right to close the pool early in the event of severe weather with no refund due Customer.

8. CLOSING. The pool will be considered closed to swimmers at end of the day on the last day of operation as specified in Section 6 and Company will close the pool as soon after that date as Company deems possible. The Company will complete the following services, where applicable:

- (a) Pump pool water to correct level.
- (b) Prepare pool and pool plumbing lines for freeze protection; Company agrees to use common and accepted winterization techniques. Company will repair any freeze damage at Company's expense, with the exception of damage due to circumstances beyond the Company's control. If a contractor is to be selected to complete a repair under this warranty, only the Company has the right to choose a contractor.
- (c) Add anti-freeze to appropriate fixtures.
- (d) Drain pumps and hair/lint strainer.
- (e) Backwash and drain filter tanks. (O Open all valves to appropriate settings,
- (g) Remove and store skimmer parts.
- (h) Remove and store all movable ladders, lifeguard chairs, and diving boards when required for closing pool.
- (i) Clean chemical feeders, drain and store hoses.
- (j) Lubricate filter system valves.
- (k) Add winterization chemicals to pool.
- (l) Install Customer's cover, if applicable
- (m) Store pool furniture at Customer's pool.

9. PERSONNEL. All Company personnel who will work at the Customer's pool in fulfilling the terms of this Agreement, including all Attendants, shall be employed solely by the Company and be employees of the Company. No Attendant shall be engaged by the Company as an "Independent Contractor" to fulfill the terms of this Agreement.

(a) The Company agrees to pay the following for Company's employees, including all Attendants:

- wages
- income tax withholdings
- Social Security withholdings
- state unemployment insurance
- Fed. Unemployment Insurance
- Workmen's Compensation insurance

(b) Personnel will be trained by the Company. Personnel not performing up to the standards of the Customer will be replaced by the Company.

(c) Attendants will be supervised by Company management personnel. Company management personnel will visit the pool at least twice each week to check performance of Attendants.

(d) Whereas, Company will invest substantial resources to train and convey information concerning operational techniques and management procedures to its employees at Customer's facility and Customer acknowledges that such information and investment is a valuable asset of Company's business. Customer agrees not to hire or consult (without the prior written consent of Company) any employee or former employee of the Company for a period of one year from the date of expiration or cancellation of this agreement.

(e) Various Company personnel will be responsible for the following duties:

- (1) Assisting Customer in collecting guest fees and monitoring membership.
- (2) checking water chemistry and recording readings every two (2) hours.
- (3) maintaining chemical balance of pool water.
- (4) vacuuming pool.
- (5) cleaning tiles around pool edge.
- (6) backwashing filter system.

- (7) cleaning bathhouse daily.
- (8) cleaning swimming pool area.
- (9) emptying trash.
- (10) straightening deck furniture.
- (11) replenishing janitorial supplies in bathhouse.
- (12) check and record filter pressure gauge readings and flow meter readings daily.
Take corrective measures as indicated.

10. **WATER QUALITY.** Company will be responsible for maintaining the following chemical levels of the swimming pool water within the tolerances of the American Public Health Association and the local health department while pool is open to swimmers:

Free Chlorine	2.0 to 10.0 PPM
pH	7.2 to 7.8
Total Alkalinity	80 to 120 PPM
Calcium Hardness	200 to 300 PPM
Chlorine Stabilizer	less than 100 PPM

At no time will the water chemistry cause a failure of permission to operate the pool granted by the local health department. In the event the local health department revokes permission to operate the pool due to improper water chemistry, Customer shall be entitled to a partial refund of the contract price set forth herein computed by the following formula:

Number of days closed times the average daily portion of the contract price
(total price divided by number of days pool is to be in operation as
determined by this Agreement).

All of the foregoing notwithstanding however, the Company shall be excused from maintaining water quality as established herein and the Customer shall be entitled to no refund in the event of any Act of God, repairs, interference by Customer, together with any and all other reasons beyond the control of Company.

Any work performed by Company shall be subject to the conditions in the "Repair Work" provision of this Agreement.

11. **REPAIR WORK.** The Company shall stand ready to perform any repair work needed during the term of this Agreement; however, Customer shall have the option of using another contractor for repair work.

Work will be billed as follows:

(a) Any repairs required as the result of error or negligence by Company shall be paid for by Company with no cost to Customer. Additionally, Company shall reimburse Customer for volume of water lost as a result of error or negligence.

(b) Company will perform minor repairs to the pool and recirculation system, as part of the service provided; however, the Customer shall pay for parts and/or materials.

(c) For repair work or necessary equipment wherein the cost does not exceed \$125.00, the Company shall bill Customer.

(d) Any work or equipment in excess of \$125.00 to be provided by the Company or Company's subcontractors will be provided and billed to Customer. Such work or equipment shall be provided only upon the authorization of the designated representative of Customer, or in the event the Customer elects not to have such work performed or equipment provided, Company may cancel this Agreement if said election interferes with the Company's ability to carry out its responsibilities under this Agreement.

12. CHEMICALS AND SUPPLIES. Company agrees to supply, at its expense:

(a) Chlorine and pH control chemicals for safe and clean pool water throughout the pool opening period of this agreement.

(b) the following pool supplies:

tile scrub pads

tile cleaner test

kit reagents

(c) the following janitorial supplies:

soap disinfectant paper towels deodorizer toilet tissue

correct size trash can liners for the pool area and

bathrooms glass cleaner

Customer shall be responsible for providing, at no cost to Company, other equipment such as:

water hoses

pool vacuum heads

pool poles

pool vacuum hoses
pool rules signs
trash receptacles
water test kit
First Aid Kit
First Aid supplies
Blood Borne Pathogen Kit
safety goggles
chemical resistant gloves
mop
brooms
dustpan
brushes
bucket
sponges
pool brush
leaf skimmer
algae brush
algaecides

For Customer's convenience and for the efficient operation of the pool, Company will provide and invoice Customer for any of the items listed above that are not at the pool. Customer agrees to pay invoices for said supplies within thirty (30) days after invoicing.

ADDITIONAL CHEMICALS OR LABOR. If additional chemicals or labor are required to maintain or correct pool water chemistry due to a failure or breakdown of Customer's equipment, or loss of water due to a defect in Customer's pool or recirculation system, Company shall notify Customer of such breakdown or defect, and if Customer elects not to remedy problem within seven (7) days of notice, Customer shall pay as an additional charge the reasonable expense of all said additional chemicals and/or labor. Amount owed for chemicals and/or labor shall be paid by Customer within ten (10) days after invoicing by Company.

13. EMERGENCY CLOSING OF POOL. The Customer and/or Company may close the pool in an emergency situation, whether the emergency be caused by breakdown of equipment, or by other causes outside of the Company's control; this shall not require any change or adjustment in any of the provisions of this Agreement. Should a time lapse of more than ten (10) days be necessary to perform repairs and/or restore pool to normal operations, the Company shall refund fifty percent (50%) of the daily operating cost from the fifth day on a pro-rated basis. This is to be computed at one percent (1%) of the total contract cost until such time as the pool is reopened for normal operation. If the pool is not reopened for normal operation within ten (10) days, Customer may cancel this Agreement by written notice to Company.

In the event of failure to open due to lack of Attendant, the Customer will be entitled to a refund of attendant wages on a pro-rated basis.

14. INSURANCE/LIABILITY The Company shall maintain and keep in full force the following coverage:

- 1.) **Professional Liability Insurance and General Liability Insurance in the amount of \$1,000,000.00**
- 2.) **Worker's Compensation Insurance covering all persons engaged on behalf of the Company in the performance of the terms of this Agreement.**

Company agrees to indemnify and hold the homeowner association, its officers, committees, and agents harmless from and against any claims caused by or arising out of the acts, omissions and/or negligence of the Company or its employees. This indemnity does not require Company to indemnify Customer for Customer's own negligence.

Company agrees to supply copies of the certificates of insurance to the Customer verifying the above-mentioned insurance coverage. It is the responsibility of the Customer to provide all other insurance coverage.

Except due to acts of omission or negligence on the part of the Company or its employees, Company assumes no liability for damage or injury to persons or property arising from or caused by Acts of God. Except as to the employees of Company, Company assumes no liability for damage or injury to persons or property arising from or caused by physical or mental incapacity, physical or mental diminution, or intoxication from alcoholic or other substances, whether legal or illegal, nor for the acts of "Good Samaritan" by any employees of Company. The Company shall not be liable or responsible for any injuries or damages that arise at any time that is not within the hours of operation as stated in this Agreement. Further, the Company shall not be held liable for any personal effects of any person or persons utilizing the pool facilities.

The Customer shall maintain and keep in full force and effect the following coverage:

1. Premises liability insurance.

2. Comprehensive general liability insurance in the amount of \$1,000,000.00 each accident and \$1,000,000 each person.

Company shall arrange for its insurance carriers to name Customer, as additional insured on all of Company's insurance policies.

1 5. CANCELLATION. The Customer shall have the right to cancel this Agreement based on Company's non-performance of duties and responsibilities as follows:

- (1) Customer shall notify Company by certified mail of any problem regarding performance as detailed in this Agreement. Company shall have 48 hours following notification to remedy stated violation of contract.

- (2) If Company fails to remedy violation and continues to not perform as detailed in this Agreement, Customer may terminate Agreement by providing five (5) days' written notice to Company by certified mail.

- (3) In the event that Customer terminates contract by procedure stated above, the Customer shall either be entitled to a refund for money paid in advance or shall be responsible for a balance owed to the Company. Refund to be computed as follows:

A daily portion of the contract price shall be computed by dividing the total contract price by the number of days pool was to be open to members as determined by this Agreement. This daily price shall be multiplied by the number of days pool was operated under this Agreement. That amount shall be subtracted from the total amount of contract price paid to Company by Customer as of termination date. The resulting figures shall either be the refund to which the Customer is entitled or remaining balance owed to Company

- (4) Refund or balance owed shall be paid within five (5) business days after termination.

16. MISCELLANEOUS.

- (a) The Company may, with the permission of the Customer, display a sign on the pool premises in a conspicuous place designating the responsibility to the Company for the quality of the pool and the performance of the pool staff.

1 7. PAYMENTS. The Company hereby proposes to perform the work and services set forth above for the price of \$21,500.00 per swim year, upon specifications, conditions and terms as set forth herein. Payments by Customer to Company shall be made in accordance with the following schedule:

- (a) One (1%) percent upon the annual renewal date \$ 215.00 of this Agreement.

(b)	Nine (9%) percent on or before April 1 of each year.	<u>\$1,935.00</u>
(c)	Fifteen (15%) percent on or before May 1 each	<u>\$3,225.00</u>
(d)	Twenty-five (25%) percent on or before June 1 of each year.	<u>\$5,375.00</u>
(e)	Twenty-five (25%) percent on or before July 1 of each year.	<u>\$ 5,375.00</u>
(f)	Twenty (20%) percent on or before August 1 of each year.	<u>\$ 4,300.00</u>
(g)	Five (5%) percent on or before September 10 of each year.	<u>\$ 1,075.00</u>
	TOTAL:	<u>\$ 21,500.00</u>

Payments repeat for 2023 season.

Payments are due as indicated above. All payments as specified above, not made on or before ten (10) days after the due date shall be subject to delinquent payment fees of 1 1/2% per month, or any part of a month, of the amount due or any portion thereof. Payments for repairs, equipment or labor, not made on or before thirty (30) days after the due date shall be subject to delinquent payment fees of 1 1/2% per month, or any part of a month, of the amount due or any portion thereof. In the event payments are not received within ten (10) days from the due date for contract payments, and thirty (30) days from the due date for other payments, the Company shall have the right, at its option, and within its sole discretion to suspend, until all overdue payments are received, or terminate its services under this Agreement and in either case to withdraw and remove all personnel from Customer's pool facilities without any further or additional notice to Customer. During a period of suspension or after termination, control of the pool and premises will be surrendered to the Customer and, if operated, it is at the Customer's sole risk and liability. Customer agrees to indemnify and hold Company harmless for any claims arising from the use of the pool(s) during a period of suspension or after termination due to payment(s) not being received on time. Any such suspension or termination Customer shall be fully responsible for all payments provided herein.

In the event that Company elects to pursue collection of any amounts due under this Agreement, Customer shall pay all said amounts, together with interest at the rate of 12% per annum from

the date the same became due. together with any and all cost of collection, including and together with any and all reasonable litigation expenses, including reasonable attorney's fees.

18. CUSTOMER CONTACTS

PRIMARY CONTACT,

Name James Crawford
Position: Sale Rep.
Street: 276 Timber Dr #1301 E
City: Garner State: NC Zip: 27529
Telephone: (919) 999-8681 Email: cpoolso@gmail.com

19. **EXTENSION OF CONTRACT.** This Agreement shall automatically renew on the same terms and conditions herein at the contract amount in effect for the immediate preceding year, plus an amount not to exceed 5% thereof, at the sole option of Company. In the event that Customer desires not to renew and extend this Agreement as provided herein, Customer shall provide Company with written notice thereof on or before September 30 of the current year.

20. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of North Carolina.

21. **STRICT COMPLIANCE.** No failure of Company to exercise any power or right granted hereunder, or to insist upon strict compliance by Customer with its obligations and duty hereunder shall constitute a waiver of Company's right to demand strict compliance with the provisions hereof at any time.

22. **TIME OF ESSENCE.** Time is of the essence of this Agreement.

23. **ENTIRE AGREEMENT MODIFICATION BINDING EFFECT.** This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements, understandings or negotiations, written or oral. This Agreement may not be modified or amended except in writing, signed by both parties hereto. This Agreement shall be binding upon and ensure to the benefit of the Customer and Company and to their respective heirs, successors and assigns.

24. **RIGHTS CUMULATIVE.** All rights and powers under this Agreement shall be cumulative and, except as otherwise provided herein, shall be in addition to any and all other provided at law or in equity.

25. **EXTENSIONS.** Unless other agreed to by Customer and Company in writing, the terms of this Agreement shall apply to all extensions and renewals hereof.

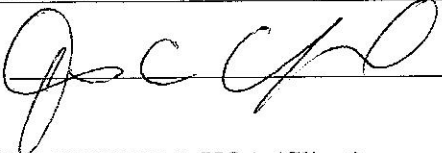
26. **SEVERABILITY.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall- to any extent, be invalid or unenforceable, the remainder of this

Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

27. **ATTORNEYS FEES.** In the event of legal action to enforce the rights of either Company or Customer under the terms of this Agreement, the parties agree that the prevailing party in said legal proceeding shall be entitled to receive as additional damages, any and all litigation expenses, including reasonable attorney's fees.

28. **ACCEPTANCE.** Acceptance of this Agreement by Customer through signatures below, and return of this Agreement along with any payments due hereunder will constitute a contract entered into in accordance with the specifications, terms and conditions and addenda attached hereto.

CPO Pools _____ (Company)

By:  _____

MCKINLEY MILL HOA (Client)

By: _____

Title of Officer: _____