



**AQUATIC MANAGEMENT GROUP
MANAGEMENT AND MAINTENANCE AGREEMENT**

THIS MANAGEMENT AND MAINTENANCE AGREEMENT (“Agreement”) is made by and between Suncrest Village Homeowners Association (“OWNER”), a North Carolina corporation which owns and operates a neighborhood pool (collectively, the “POOL”), and Aquatic Management Group Inc. (“MANAGER”), a North Carolina corporation which operates a swimming pool management service and has its principal office located at 5300 Atlantic Ave, Suite 101, Raleigh, North Carolina 27609, this the 24th day of January 2022 and is binding on the parties to the Agreement and their successors and assigns.

WHEREAS: OWNER desires to have MANAGER manage and maintain POOL, and

WHEREAS: MANAGER desires to provide such management and maintenance service for OWNER.

NOW THEREFORE: OWNER and MANAGER agree as follows:

1) TERM:

This Agreement shall be effective from February 1, 2022 until and including December 31, 2023 (the “INITIAL TERM”). The Agreement shall be automatically extended for additional successive one year terms at a four percent (4%) annual increase unless either party gives written notice to the other party at least sixty (60) days prior to the end of the then effective term of the termination of the Agreement.

2) PAYMENT:

OWNER shall pay MANAGER \$16,500 per year (the “Annual Fee”) during the term of this Agreement in accordance with the schedule set forth herein for Seasonal Opening Services as set forth in Section 3, Daily Maintenance and Operation as set forth in Section 5, Chemicals and Supplies as set forth in Section 6, and Winterizing as set forth in Section 12, except as otherwise specified in each such Section. If both parties allow contract to automatically renew the additional four percent (4%) increase will be spread evenly over the current monthly payments.

PAYMENT SCHEDULE

January 1	\$
February 1	\$3300
March 1	\$
April 1	\$2640
May 1	\$2640
June 1	\$2640
July 5	\$2640
August 1	\$2640
September 1	\$
October 1	\$
November 1	\$
December 1	\$
Total Annual Fee	\$16,500

All of the services, supplies, products, parts, and equipment provided by MANAGER to OWNER and expenses incurred by MANAGER on behalf of OWNER that are not included in the Annual Fee shall be charged to OWNER as additional fees (individually and collectively, “ADDITIONAL FEES”). All ADDITIONAL FEES shall be invoiced by MANAGER to OWNER, and OWNER shall pay to MANAGER the ADDITIONAL FEES in accordance with the invoice on the next regularly scheduled payment date as set forth in Payment Schedule above in addition to the payment amount specified in the Payment Schedule, but in no event more than thirty (30) days following the date of the invoice from MANAGER.

Time is of the essence with regard to payment of the Annual Fee and ADDITIONAL FEES under this Agreement.

In the event that the federal and/or state sales tax laws require sales tax to be charged to any or all parts of the management contract, this will be billed as ADDITIONAL FEES.

In the event average local gas prices for unleaded gas reaches above \$4 per gallon, an appropriate fuel surcharge will be invoiced at the end of the season as ADDITIONAL FEES.

If POOL is closed by national, state or local authority outside of MANAGER controlled violations as expressed by the North Carolina Rules Governing Swimming Pools, OWNER will maintain full responsibility of all contract costs.

3) SEASONAL OPENING SERVICES:

MANAGER shall prepare the POOL prior to each opening during the term of this Agreement for seasonal opening by providing the following services:

- Vacuum POOL
- Clean POOL enclosure
- Inspect chemical feeders
- Inspect all filtration equipment
- Inspect flow meters, pressure gauges and valves
- Mount guard chairs and ladders
- Clean bathrooms
- Inspect and resupply water testing supplies
- Order, store and inject all necessary chemicals to establish proper levels for:
 - Free chlorine
 - pH
 - Calcium hardness
 - Cyanuric acid
- Set out and clean deck furniture
- Assist OWNER in obtaining a Swimming Pool Operation Permit from the local Health Department, which assistance shall be comprised of:
 - Clean and chemically balance POOL to Health Department standards,
 - Complete the Swimming Pool Operation Permit Application (excluding the permit and application fees) and return it to the Health Department
 - Schedule pre-season Health Department inspection and meet the County Health Department Inspector at the POOL to walk through the inspection with the Health Department Inspector as required. OWNER shall be notified by MANAGER of scheduling of inspection date

Seasonal Opening Services do not include repair services, replacement parts and equipment, and permit and application fees, all of which shall be ADDITIONAL FEES that are charged to OWNER if provided to or on behalf of OWNER.

Seasonal removal and installation of shade structure fabric to be billed as ADDITIONAL FEES.

Additional inspections such as night swimming permit inspections, will be billed as ADDITIONAL FEES.

4) OPERATING SCHEDULE:

MANAGER shall operate and maintain the POOL during the SUMMER SEASON and the WINTER SEASON. SUMMER SEASON means open the last Saturday in May through and including the first Sunday after Labor Day. Future year schedules will reflect as similar of dates as possible given changes in dates and school schedules.

WINTER SEASON means all dates and times that are not specified as part of the SUMMER SEASON.

5) DAILY MAINTENANCE AND OPERATION:

MANAGER shall provide the services set forth below on a daily basis during the Summer Season (the "Summer Season Services"). During the Winter Season, MANAGER shall maintain the POOL in a clear blue state through weekly servicing.

SUMMER SEASON SERVICES:

The following services shall be provided by MANAGER and overseen and inspected daily during the Summer Season:

- Test and maintain chemical balance of water to all applicable standards and requirements (two times daily).
- Mitigate algae and stains as required.
- Empty trash containers daily or more frequently as required to maintain cleanliness.
- Inspect and maintain bathhouse cleanliness.
- Move trash to appropriate location for weekly pickup and retrieve empty containers.
- Replace all burnt out incandescent light bulbs other than pole lights and submerged lights, about which MANAGER shall notify OWNER.
- Backwash of filters as needed.
- Create and maintain all records daily as required by law or governing health authorities.
- Enforce all POOL rules and regulations.
- Check condition of main drain covers once per day.
- Check condition of skimmers once per day.
- Check condition of pumps, chemical feeders, flow meters and pressure gauges once per day.
- Check condition of all safety equipment (telephone, Sheppard's Crook, ring buoy and safety rope) once per day.
- Check condition of slide (if applicable) once per day.
- Check condition of all gates once per day.
- Clean and empty skimmers once per day.
- Clean out hairnet basket weekly.
- Scrub the POOL tiles weekly.
- Organize lost and found weekly.
- Brush POOL weekly

MANAGER shall check the phone and telecommunication line each day to confirm it is functioning properly and inform OWNER promptly of any problem. In addition, MANAGER will provide periodic inspections and supervision of the POOL and of MANAGER's personnel to ensure that MANAGER is meeting all of its obligations set forth herein.

MANAGER shall comply with all local, state and federal regulations regarding the operation of the POOL.

Fecal contamination, vandalism and major storm prep/cleanup shall be billed as ADDITIONAL FEES.

6) CHEMICALS AND SUPPLIES:

MANAGER shall provide all necessary chemicals and supplies identified as MANAGER CHEMICALS AND SUPPLIES. OWNER shall be responsible for all other chemicals and supplies, at its own expense. If MANAGER purchases chemicals and supplies identified as OWNER CHEMICALS AND SUPPLIES or any other chemicals and supplies that are not identified as MANAGER CHEMICALS AND SUPPLIES, at the request of OWNER or with the authorization of OWNER, there items shall be invoiced by MANAGER to OWNER as ADDITIONAL FEES.

OWNER may be responsible for ADDITIONAL FEES if the current primary source of disinfectant changes after or during the execution on the terms of this agreement and result in additional cost upon the MANAGER.

In the event MANAGER costs of MANAGER CHEMICAL AND SUPPLIES increases by more than 20% during the service period of this agreement, an appropriate chemical surcharge will be invoiced at the end of the season as ADDITIONAL FEES.

MANAGER CHEMICALS AND SUPPLIES

Pool Chemicals:

- Chlorine
- Sodium Bicarbonate
- pH Adjusting Chemicals
- Chlorine Stabilizer
- Calcium Chloride
- Hydrochloric/ Muriatic Acid

Other Pool and Janitorial Supplies:

- Soap
- Toilet Tissue
- Tile Scrub Pads
- Incandescent light bulbs for bathrooms and pump house
- Disinfectant
- Trash Can Liners
- Paper Towels
- Sponges

OWNER CHEMICALS AND SUPPLIES

- Mops
- Brooms
- Dust Pans

- Water Hoses
- Pool Poles
- Leaf Skimmers
- Life Hooks
- Water Test Kit
- First Aid Kit (meeting Wake County standards)
- Blood Borne Pathogen Clean-up Kit
- Spray Nozzles
- Pool Vac Hoses
- Algae Brushes
- Pool Signs
- Test Kit Reagents
- Liquid Chemical Feeder Pump
- Pool Vac Heads
- Pool Brushes
- Trash Receptacles
- Ring Bouy with Life Line
- Leaf Blower

7) RELATIONSHIP OF THE PARTIES:

MANAGER shall at all times be deemed an independent contractor to the OWNER. Neither MANAGER nor any of MANAGER’s personnel shall be considered an agent or an employee of OWNER in the performance of services hereunder. OWNER shall never be responsible for wages of MANAGER’S employees. All personnel provided by MANAGER shall be employees or contractors of MANAGER. OWNER shall not directly or indirectly hire or attempt to hire any of MANAGER employees during the term of this Agreement or for the eighteen (18) month period immediately following the termination of this Agreement, regardless of the reason for termination, without MANAGER’s prior written consent. If any OWNER pool member, association board member, or property management agent witnesses or otherwise learns of any action on the part of a MANAGER’s employee that is believed to constitute negligence or willful misconduct (including harassment) or is otherwise inappropriate, OWNER shall promptly notify an officer or senior manager of MANAGER in order to allow MANAGER to take appropriate action in a timely manner.

8) REPAIR WORK:

OWNER shall be responsible for the entire cost of repairs and replacement of damaged or defective or dangerous equipment, including but not limited to repairs necessitated by vandalism, and for the elimination of unsafe conditions; provided, however, that MANAGER shall be responsible for repairs or replacement of equipment that is proximately damaged by the negligence of MANAGER’s personnel. MANAGER shall promptly notify OWNER of damage, defects, and dangerous conditions in the POOL and ancillary facilities discovered by MANAGER. MANAGER shall not perform or contract for any repairs or replacements or take other related actions resulting in ADDITIONAL FEES in excess of one thousand dollars (\$1000.00) without obtaining the prior agreement of OWNER, unless the condition to be remedied constitutes an immediate safety concern or is required by law to keep the POOL open. If MANAGER provides repair, replacement, or related services, OWNER shall pay MANAGER’s invoice for such services as an ADDITIONAL FEE. MANAGER shall not be held responsible for the inability to use the POOL because of equipment failure or other causes beyond the control of MANAGER.

OWNER is responsible for all building and electrical inspections, and well as ensuring all electrical components are up to code, are safe for operation and shall immediately notify MANAGER if any potential unsafe conditions regarding electrical hazards or otherwise exist.

9) NOTICE:

Any notice required to be given pursuant to this Agreement shall be in writing and personally delivered or sent by overnight express mail delivery postage pre-paid. A party may also give notice by facsimile transmission or by electronic mail, provided that such party retains proof of transmission and mails an original of the notice to the other party for delivery on the immediately succeeding business day. All notices shall be addressed to the following individuals (or to such other individuals and addresses as a party shall specify from time to time by notice given pursuant hereto):

MANAGER:

Aquatic Management Group, Inc.
Attn: Braxton P. Wilson (CEO)
5300 Atlantic Ave. Suite 101
Raleigh NC 27609
Facsimile: 919-233-4909
Email: "Braxton P. Wilson" <bwilson@aquaticmanagementgroup.com>

OWNER:

Suncrest Village Homeowners Association
P.O. Box 1149
Apex, NC 27502

Notices shall be deemed given and received as follows: (i) one business day after the date of mailing if the notice is deposited with a carrier for next day delivery; or (ii) on the date of delivery if the notice is personally delivered or delivered by facsimile transmission or electronic mail, provided that delivery occurs prior to 4:30 p.m. EST in which the recipient address for notice is located on a business day.

10) EMERGENCY POOL CLOSING:

MANAGER shall have authority to close facility due to inclement weather or for any other condition in which MANAGER views as a material safety issue, including but not limited to hurricane/ tropical weather threat, fecal accidents and other POOL contaminations. MANAGER shall re-open the POOL once inclement weather has passed or major safety issue has been corrected or abated.

11) OWNER OBLIGATIONS:

The OWNER shall be responsible for the discipline of its members. Immediate action may be taken by the MANAGER in the event any OWNER member is acting in a manner disruptive to

the safe operation of the POOL, and the OWNER authorizes and grants to 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.

OWNER shall provide the following utilities, facilities, and documents at no charge to MANAGER at all times during the TERM:

- Water
- Electricity
- Garbage pick-up service
- 110 volt outlet in pump room
- Telephone and live telecommunication line
- Written copy of POOL rules

OWNER is expected to engage a licensed electrician on an annual basis prior the start of the Summer Season to conduct a comprehensive inspection of OWNER's pool electrical system and to implement promptly all repairs, upgrades, and other modifications recommended by the licensed electrician. OWNER shall ensure that the pool electrical system and all power sources at OWNER's pool facility are installed with ground fault circuit interrupter protection prior to the first day of the Summer Season.

OWNER acknowledges that the POOL cannot be opened or operated without a functional telephone and live telecommunications line.

12) WINTERIZING:

MANAGER shall prepare the POOL for the winter season by performing winterizing services as soon as is reasonably feasible following the Summer Season. Such winterizing services shall be:

- Winterize all bathroom and plumbing fixtures if requested by OWNER.

MANAGER not responsible for freeze damage to fill line and/or irregular plumbing that prevents proper winterization and/or de-winterization caused by a leaking valve.

13) INSURANCE:

MANAGER shall carry the following insurance coverage:

- 1) Workers' Comp on all of its employees as required by the state of North Carolina and
- 2) Commercial Liability Insurance in the amount of \$1,000,000 per occurrence and bodily injury and property damage in the amount of \$1,000,000 per occurrence.

OWNER shall carry all property and liability insurance required by law, and OWNER shall carry Liability Insurance in the amount no less than \$1,000,000 per occurrence and bodily injury and property damage in the amount no less than \$1,000,000 per occurrence.

All such insurance shall be: (i) underwritten by insurers which are rated "A" or higher by the most current edition of *A.M. Best's Key Rating Guide*; and (ii) endorsed to specifically list the MANAGER as an additional insured to the extent of losses incurred during, or in any way related to, the performance of the duties under this Agreement. OWNER shall list MANAGER as additionally insured on OWNER's liability insurance policy. OWNER's liability insurance shall be primary insurance and MANAGER's liability insurance shall be secondary. Within

thirty (30) days following execution of this Agreement, each party shall provide the other party with a certificate of insurance, reasonably satisfactory to other party, evidencing the existence and effectiveness of the insurance required under this Agreement, and replacement certificates of insurance shall be provided during the term of this Agreement. Such certificates or policy endorsements shall provide that a party's insurer will endeavor to provide thirty (30) days prior written notice to the other party to this Agreement prior to cancellation of any policy. Upon request by a party to this Agreement, the other party shall provide to the requesting party a copy of the insurance policy(ies) required by this Agreement. Each party shall pay promptly all premiums for insurance in strict accordance with the obligations to its carrier or carriers such that the party at all times shall have full insurance coverage as herein provided. Each party's compliance with the provisions of this Section and the limits of insurance specified and to be provided by the party shall not constitute a limitation of the party's liability for its negligent acts or omissions or in any way limit, modify, or otherwise affect the party's indemnification obligation pursuant to this Agreement. The insolvency, bankruptcy, or failure of any insurance company carrying insurance for a party, or failure of any such insurance company to pay claims asserted, shall not abrogate, waive, or alter any of the party's responsibilities or liabilities hereunder.

14) INDEMNIFICATION AND HOLD HARMLESS OBLIGATION:

To the fullest extent permitted by law, OWNER shall defend, indemnify, and hold harmless MANAGER and its respective officers, directors, employees, agents, affiliates and representatives (the "Indemnified Persons") from and against any and all claims, demands, suits, liabilities, causes of action, losses, expenses, damages, fines, penalties, court costs, reasonable attorneys' fees, and personal injury and property damage claims (collectively, "Claims") arising out of or relating to: (A) OWNER's breach of any representation, warranty, or covenant under this Agreement; (B) any negligent, reckless, or intentional act or failure to act by OWNER or its members, invitees, employees, agents, contractors, or any other person or entity directly or indirectly employed or engaged by OWNER, or anyone for whose acts OWNER may be liable; (C) OWNER's failure to comply with applicable laws; (D) OWNER's failure to engage a licensed electrician prior the start of the Summer Season to conduct a comprehensive inspection of OWNER's pool electrical system; (E) OWNER's failure to implement promptly all repairs, upgrades, and other modifications recommended by the licensed electrician; (F) latent conditions and defects existing in or on OWNER's premises; and (G) the intoxication or impairment of any person, furnishing of alcohol beverages to a person under the legal drinking age or under the influence of alcohol, or any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This indemnification, defense, and hold harmless obligation of OWNER also includes, but is not limited to: (a) all damages and injuries associated with or arising from: (I) latent conditions and defects existing in or on OWNER's premises, including but not limited to faulty electrical wiring, (II) structural defects in and around the pool, clubhouse, parking lot, and ancillary facilities, (III) work performed by third parties and goods purchased from third parties, and (IV) the facilities, services, and utilities that OWNER is obligated to provide pursuant to this Agreement; and (b) all damages and liabilities resulting from or associated with the intoxication or impairment of any person, furnishing of alcohol beverages to a person under the legal drinking

age or under the influence of alcohol, or any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages. This indemnification, defense, and hold harmless obligation shall survive the termination or expiration of this Agreement. In claims against any Indemnified Person by an employee of OWNER, the indemnification obligation shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for OWNER under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. An Indemnified Person may, at its election, participate in the defense thereof at its sole cost and expense; provided, however, that if: (A) OWNER shall fail to defend any Claims; (B) the parties hereto mutually agree in writing to allow the Indemnified Persons to assume the defense of such Claims and forgo any indemnity claimed under this Section; (C) in the reasonable opinion of legal counsel for the Indemnified Persons, such Claims involve the potential imposition of criminal liability on an Indemnified Person; or (D) in the reasonable opinion of legal counsel for the Indemnified Persons, an actual or potential conflict of interest exists where it is advisable for any such Indemnified Persons to be represented by separate counsel, then such Indemnified Persons shall be entitled to control and assume responsibility for the defense of such Claims, at the cost and expense of OWNER. OWNER may, in any event, participate in such proceedings at its own cost and expense. OWNER, in the defense of any such litigation, other proceeding, or other claim, shall have the right in its sole discretion to settle such Claims only if: (aa) settlement involves only the payment of money and execution of appropriate releases of the Indemnified Persons; (bb) there is no finding or admission of any violation of law or violation of the rights of the Indemnified Persons; and (cc) the Indemnified Persons will have no liability with respect to such compromise or settlement. Otherwise, no such Claims shall be settled or agreed to without the prior written consent of the Indemnified Persons. The Indemnified Persons and OWNER shall fully cooperate in good faith in connection with such defense and shall cause their legal counsel, accountants and affiliates to do so, and shall make available to the other party all relevant books, records, and information (in such party's control) during normal business hours, and shall furnish to each other, at OWNER's expense, such other assistance as the other party may reasonably require in connection with such defense, including making employees of the Indemnified Persons available to testify and assist others in testifying in any such proceedings.

15) DEFAULT AND TERMINATION:

This Agreement shall automatically terminate if either party is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any proceeding is demanded by, for or against such party under any provision of any Federal or State bankruptcy law.

In the event that OWNER reasonably believes that MANAGER has breached any provision of this Agreement or has failed to perform or has unsatisfactorily performed any of its obligations hereunder, OWNER may terminate this Agreement without any additional obligation upon written notice to MANAGER if OWNER first: (i) provides ten (10) days prior written notice to MANAGER and MANAGER is unable to cure the breach within the ten (10) day period; provided, however, the cure period shall be extended as necessary if the breach cannot feasibly be cured within ten (10) days and MANAGER is proceeding with the cure with reasonable diligence; and (ii) has made all payments then due and owing, except that OWNER reserves the

right to withhold payment due and owing after the date of notice of the breach until right to cure has been completed.

If OWNER fails to timely make payment in accordance with the Payment Schedule set forth in Section 2, fails to timely pay ADDITIONAL FEES, or otherwise fails to comply with any provision of this Agreement, MANAGER may immediately terminate this Agreement without any additional obligation upon written notice to OWNER if MANAGER first provides ten (10) days prior written notice to OWNER and OWNER is unable to cure the breach within the ten (10) day period; provided, however, except with regard to payment obligations, the cure period shall be extended as necessary if the breach cannot feasibly be cured within ten (10) days and OWNER is proceeding with the cure with reasonable diligence. Upon termination of the Agreement by MANAGER, MANAGER may immediately cease to provide any or all services, supplies and personnel to OWNER and to avail itself of any and all remedies, both legal and equitable, it may be entitled to at the time of OWNER'S default.

In the event that MANAGER terminates this Agreement due to OWNER's breach or default, all payments of the Annual Fee specified in Section 2 and all ADDITIONAL FEES incurred by OWNER shall be immediately due and owing, and MANAGER shall be entitled to recover all damages directly and indirectly caused by such default, interest on the balance due at the rate of sixteen percent (16%) per annum accruing from the date of default, and all related expenses and attorneys' fees associated with the collection of the amount due.

16) AMENDMENTS:

This Agreement may be amended from time to time as the parties mutually agree. All such amendments, if any, shall be in writing using the same degree of consideration and formality as was used to document and execute the original Agreement and shall only become effective when properly executed by both parties. This Agreement shall not be assigned without the express written consent of both parties.

17) MISCELLANEOUS TERMS:

This Agreement embodies the entire agreement and understanding between the parties and supersedes all prior agreements, understandings, representations and discussions regardless of their form.

This Agreement shall be governed by the laws of the State of North Carolina.

Except as required by law, the parties shall maintain the terms of this Agreement as confidential.

Each party represents and warrants to other party that: (a) the party is a corporation validly existing and in good standing under the laws of the State of North Carolina; (b) the party has all necessary power and authority to execute, deliver, and perform this Agreement; and (c) this Agreement constitutes the legal, valid and binding obligation of the party, enforceable in accordance with its terms.

In the event that either party institutes any legal suit, action, or proceeding against the other party to enforce the covenants contained in this Agreement (or obtain any other remedy in respect of any breach of this Agreement), the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.

IN WITNESS HEREOF, the parties hereto have signed this Agreement by their duly authorized representatives and/or agents who represent that they have the express authority to enter into this Agreement on behalf of their respective parties.

OWNER:
Suncrest Village Homeowners Association

MANAGER:
Aquatic Management Group, Inc.

By: _____

By: _____
Braxton Wilson, CEO

Printed Name

Title