

Discussion Item

Pool Contract – High Sierra Pools



Dear Property Manager,

With tremendous appreciation, we would like to thank you for your cooperation, understanding, and support during 2021 summer season. It is High Sierra's objectives to provide the very best client experience and safety in the aquatic industry. We are proud of the work that our team of dedicated aquatics professionals have accomplished, and we look forward to continuing our relationship. Attached, please find the swimming pool management contract for the 2022 pool season.

We are pleased to say that, with the help of you and our other clients, High Sierra opened all pools this season. It was a true team effort to navigate this rapidly changing environment and to work together to develop policies that assured safety, compliance, and risk mitigation, while simultaneously maintaining the premium client experience for which we are known.

In reflecting upon how you and High Sierra work as a partnership to use High Sierra's advantages in resources and expertise to devise a strategy for this summer, High Sierra proactively wants to prepare for the future in this uncertain environment. **Lifeguard Workforce Resiliency:** While responding to pandemic-related challenges, ranging from shortages of seasonal labor to the travel ban, which prevented hundreds of trained lifeguards from arriving to the country, High Sierra's Recruiting and Training teams have hired, certified, and scheduled thousands of lifeguards that are currently serving our clients. Notwithstanding the obstacles, High Sierra had a very successful United States recruiting season for 2021.

What Does High Sierra Expect in 2022?

I would like to take a moment to explain our 2022 price increase. Let me start with state minimum wage increase scheduled to take place next year. Minimum wage is going up by 14% which means overall cost of the contract will go up by about 10%. We also needed to take into consideration material and service increases (chemicals, insurance and skilled labor) that took place in 2021 and may go even higher in 2022. All of the above is forcing us to present you with the 15% increase.

Good news is that we expect temporary international travel bans and J-1 Summer Work and Travel visa restrictions will not be in effect during spring and summer 2022, which will allow High Sierra to utilize a hybrid staffing approach (i.e., a strong United States lifeguard base, augmented by international lifeguards, ensuring uninterrupted coverage for the full length of the season).

With these developments in mind, we encourage our clients to sign the pool management contract renewals early this year.

Because recruiting for High Sierra begins in September, your commitment means that High Sierra can plan and actively increase our recruiting and training efforts. Fortunately, High Sierra has already secured necessary commitments from our international recruiting partners, and we are confident that our United States recruiting in 2022 will be the strongest ever.

We are very confident that High Sierra Pools, Inc. will be able to meet your expectations in 2022 and provide you with the additional benefit of being served by the leader in the swimming pool management industry.



Sincerely,

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Simeon Zabchev I Regional Manager
High Sierra Pools - SAFETY IS OUR FIRST PRIORITY
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SWIMMING POOL MANAGEMENT AGREEMENT

WHEREAS, High Sierra Pools Inc. (HSP) offers pool management services for the operation of commercial swimming pools and is an independent contractor; WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements between the parties where those agreements or contracts conflict with the terms of this Agreement; WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating constraints; NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 1. GENERAL SPECIFICATIONS:

OWNER / AGENT	PROPERTY NAME	SWIM FACILITY NAME
Parkfairfax UOA 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Condominium 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Martha Custis Drive Pool 1117 Martha Custis Dr Alexandria, VA, 22302
POOL OPERATION HOURS		POOL PERSONNEL
Main Season: May 28, 2022 - Sep 5, 2022		Lifeguard 177
Mon 12:00PM-8:00PM	Fri 11:00AM-8:00PM	
Tue 12:00PM-8:00PM	Sat 9:00AM-8:00PM	
Wed POOL CLOSED	Sun 9:00AM-8:00PM	
Thu 12:00PM-8:00PM	Hol 10:00AM-8:00PM	
		Weekly Staff Hours: 177

ADDITIONAL INFORMATION

Included at NO Additional Cost: Disinfectant and PH Balancer, Liability Insurance, Area Supervisor, Spring Opening, Test Kits and Summer Reagents, Winterization

Lifeguards will have valid CPR/AED, LFG/First Aid and Pool Operator Certificates. An area supervisor will perform minimum 2 weekly inspections. Lifeguards will arrive 1 hour in advance for cleaning pool and bathrooms. Pool Opens May 29th. 3 guards on duty at all times.

PAYMENT SCHEDULE

Due on Jan 1, 2022	\$4,666.00	Due on Jun 1, 2022	\$4,666.00	Due on Nov 1, 2022	\$4,666.00
Due on Feb 1, 2022	\$4,666.00	Due on Jul 1, 2022	\$4,666.00	Due on Dec 1, 2022	\$4,674.00
Due on Mar 1, 2022	\$4,666.00	Due on Aug 1, 2022	\$4,666.00		
Due on Apr 1, 2022	\$4,666.00	Due on Sep 1, 2022	\$4,666.00		
Due on May 1, 2022	\$4,666.00	Due on Oct 1, 2022	\$4,666.00		
Contract Price \$56,000.00					

EXTRA SERVICES*

* Initial each to approve; each billed separately, each priced per year

OPTIONAL YEARS*

___ 2023 \$59,300.00

* Initial to extend Swimming Pool Management Agreement at listed price

WHEREAS, High Sierra Pools, Inc. ("HSP") offers pool management services for the operation of commercial swimming pools and is an independent contractor;

WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements or contracts between the parties where those agreements or contracts conflict with the terms of this Agreement and shall govern the relationship between HSP and Client;

WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating risks and constraints;

NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 2. SCOPE OF AGREEMENT:

Subject to the terms set forth herein in this Agreement, the Parties contemplate that HSP will provide certain pool management services which include the opening, operation of and management of Client's swimming pool or pools. HSP and Client will mutually agree upon and select an opening date for the swimming pool or pools so long as the opening date is not delayed or prevented by unforeseen or unknown events; by mechanical failures of equipment necessary to the operation of the swimming pool or pools, by repairs or replacement of equipment necessary to the operation of the swimming pool, by interruption of utilities necessary to the operation of the swimming pool, by failure to obtain annual certificates or other permits, by inadequate seasonal staffing availability or by any reason beyond the exclusive control of HSP.

SECTION 3. RESPONSIBILITIES OF CLIENT:

Client shall perform the following items in order for HSP to provide the responsibilities listed in Section 4 below:

1. Client shall ensure that the pool and that the pool equipment room is at all times available to HSP for it to perform its services while this Agreement is in effect and will provide HSP with full access to the pool on or before but no later than by April 1st of the first year of this Agreement in order for the pool to be drained and cleaned for the contemplated and mutually agreed upon date for the opening of the pool.
2. Client shall develop and provide a copy of the pool rules/regulations that it desires be applied to the pool operation and to the use of the pool. Client shall provide a mechanism to control or limit the use of the pool as required by law. Client will distribute those pool rules among its members and residents before the start of the season. Client shall provide and deliver to HSP the pool pass system to be utilized for Client's pool members, invitees, patrons, and guests. Client shall be solely responsible for the issuance and distribution of pool passes to be used for entry and access to the pool for its members, invitees, patrons, and guests.
3. Client is solely responsible providing all the security for the pool. At a minimum, Client shall provide working locks on all doors, gates and windows and shall maintain those locks. Client is solely responsible for providing and maintaining high quality and good condition fencing, walls and other appropriate barrier to ensure a secure enclosure around the pool during the time that this Agreement is in effect. Client shall provide a security system or alarm system if necessary to secure the pool and pool area. Upon reasonable request by HSP, Client will provide security guards to protect HSP's personnel and to protect Client's members, invitees, patrons, and guests.
4. Client will notify HSP of any defects, deficiencies, and/or maintenance issues as to the pool and pool premises, including but not limited to any issues with the fencing, gates, doors, locks, windows, pool equipment, pump, chlorinator, vacuum, lifeguard stands, and/or other fixtures.
5. Client shall provide a minimum of two (2) sets of keys or key cards for the pool by April 1st of this Agreement so that HSP and its personnel shall have access to any doors, gates, bathhouses, pool equipment room, lifeguard room/office, storage and/or any other areas that HSP needs for pre-opening services and for operation of the pool. If HSP is required to copy keys or key cards, Client agrees to pay for the costs of the duplicates so that HSP always has a minimum of three sets of keys or key cards.
6. Client will provide three large industrial sized trash cans with lids and one large industrial/commercial sized recycling bin with lid and trash bags for use by HSP's personnel and for pool members, invitees, patrons, and guests. Client is responsible for providing and paying for any trash removal and sanitation services and for recycling services for the pool.
7. Client will provide copies of health department inspections and/or violations from prior seasons for operation of the pool and Client shall provide all the necessary documentation regarding the pool license.
8. Client will pay for the costs to apply for and to obtain any certificates or permits required by regulatory agencies to operate the pool and pool facility unless specified otherwise in Section 1 of this contract. Administrative fees will apply to permit processing applications.
9. Client will provide an operational landline telephone connected and functional by May 1st for 911 calls and other necessary, business related local calls. The pool telephone must be blocked for long distance and international and collect calls. Client is responsible for any long distance, international and collect calls made from the pool telephone if Client fails to block the telephone use for any calls except for local and emergency telephone usage. In case landline is not available Client is required to provide 911 Call Box that is directly connected with emergency services.
10. Client is responsible for maintenance and repair of the pool premises and building premises and the toilet and shower partitions, drywall, plumbing and electrical systems are delivered to HSP and are always maintained in a safe and good working condition during this Agreement. Client shall promptly complete any and all necessary maintenance and repairs to the pool premises and pool equipment within the pool premises including but not limited to repair and maintenance of walls, drywall, plumbing, electric systems, windows, plumbing, decking, coping, tile, fencing, locking mechanisms, locks, security systems, area lights, and other items that HSP requires for a safe and successful operation of the pool. Client shall also be responsible for the maintenance and repair of the pool premises, building premises, and any premises adjacent to the pool premises to ensure that there are no defects, deficiencies or other unsafe conditions.

11. HSP is not responsible for water damages caused by lack of waterproofed floors and walls in clubhouses, pump rooms and other rooms used by HSP personnel.
12. Client shall provide HSP with any equipment requested by HSP to maintain and to clean the pool premises, including but not limited to mops, hoses, brooms, leaf blowers, toilet plungers and hose nozzles that HSP shall need to clean and maintain the pool premises in the good condition provided by Client before start of the season unless Client and HSP have agreed otherwise and Client pays HSP for providing those items.
13. Client shall provide HSP at Client's sole expense with any and all first aid and lifesaving equipment required by the local health department, Red Cross, or other regulatory agency, including but not limited to backboards with three straps and buckles and head immobilizer with two straps, rescue tubes (one per lifeguard), shepherd's (body) hooks attached to at least 12 feet non-telescopic poles and ring buoys, and AED if required by the county health code.
14. Client shall perform the initial cleaning of the bathhouses and bathrooms. Client shall also provide any additional cleaning and disinfection required by law or recommended to prevent disease exposure. Client shall provide soap, paper towels, tissues, toilet paper, cleaning supplies and other consumable supplies as needed throughout the pool season unless otherwise Client and HSP have agreed otherwise and Client pays HSP for providing those items.
15. Client shall provide, by April 1st, operational hot water heaters, mixing valves and scalding devices as required by local authorities in order to pass the pre-opening inspection for the pool to operate.
16. Client shall supply water and be responsible for water bills. If HSP determines that Client's swimming pool or pools need to be drained and refilled, Client will be responsible for any and all water costs.
17. Client shall provide any OSHA approved Personal Protective Equipment ("PPE") and devices, including, but not limited to an eye wash station, chemical apron, goggles gloves and dust mask. Client shall also provide any special equipment and supplies because of COVID-19 such as hand washing or hand sanitizer stations or other equipment recommended by the Centers for Disease Control or the American Red Cross.
18. Client authorizes HSP to post a sign at the pool premises, that identifies HSP as the pool management company for the pool.
19. Client shall post warning signs that indicate risk of use pool and lack of lifeguard on duty for the wading pool on the wading pool gates and/or fences.
20. Client shall provide any fixtures for the pool or pools and Client shall solely be responsible for the repair or replacement of any fixtures for the pool as determined by HSP, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items.
21. Client shall provide any furniture and/or equipment such as tables, chairs, loungers, and other items that Client wants to be available at the swimming pool or pools. Client is responsible for initial deep cleaning of pool furniture or request HSP to provide such services at an additional cost. Client shall provide each lifeguard station or stand with an umbrella.
22. Client shall give written notice thirty (30) days in advance of any change in the identity of the management company or the agent of Client with whom HSP communicates as to the services provided under this Agreement. Client is responsible for paying all due invoices even after property changes ownership/management.
23. Client shall maintain proper ventilation of the pool, pump room, and pool facilities.
24. If Client allows alcoholic beverages to be brought to the pool premises or to be consumed on the pool premises for special events and activities or if Client's members, invitees, patrons and guests bring or consume alcohol on the pool premises, Client at all times is solely responsible and liable for any damages or consequential loss to any person or entity.

SECTION 4. TERMS OF SERVICE TO BE PROVIDED BY HSP:

HSP will provide the following pool management services:

(a) Pre-Season Services:

1. Prior to the opening of the pool for Client, HSP will perform an inspection of the pool equipment, bathhouse plumbing, filtration system, fixtures and freshwater plumbing system to determine if pool system is fully operational.
2. HSP will remove any pool cover(s) and will store on the premises of Client. For additional expense and at Client's request and approval of additional expense, HSP will store pool cover or pool covers off site for Client.
3. HSP will drain and clean the swimming pool at its discretion if HSP determines that cleaning is necessary.
4. HSP shall fill pool and start recirculation system as part of its pre-season services
5. HSP will install any of Client's fixtures for the pool, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items if applicable, so long as all such fixtures are in good condition and are not in need of any repair.
6. HSP will move client's furniture and equipment that Client wants to be available at the swimming pool and arrange it as Client specifies. HSP is not responsible for the condition of any furniture and/or equipment.
7. HSP shall use its reasonable best efforts to prepare Client's pool in a swim-ready condition at least five (5) business days prior to the opening date.
8. If not otherwise specified in Section 1, once Client pays fees and costs for applications and for permits, provides all necessary documentation, HSP will apply for all required permits and/or authorizations and lab testing required by local Health Department and regulatory agencies (unless otherwise specified in section 1) to operate the pool or pools and to have pool be in an operational condition and attend any required inspections. HSP will post all permits and certificates in Client's designated area. If certificates and/or permits for operating cannot be acquired by HSP due to any circumstance beyond the exclusive control of HSP, it shall be the responsibility of Client to secure certificates and permits for the opening of the swimming pool.
9. HSP will provide any SDS required for chemicals to Client.

(b) Operational Services:

1. When the pool is open for the use of Client's members, invitees, patrons and guests, HSP will supply its lifeguard personnel for the opening, operation and closing of the main pool or pools.
2. HSP will only provide limited services to a wading pool on the pool premises, which services include maintenance, repairs, cleaning and water testing and treatment under the same terms as the main pool but which do not include any lifeguarding or monitoring of the wading pool use by HSP's personnel unless Client pays a separate fee to HSP for lifeguarding services for any wading pool. If Client does not pay for lifeguarding services for any wading pools, Client assumes all liability for any claims or damage that occurs in the wading pool or in the wading pool area. Client is responsible for the use of the wading pool and agrees to hold harmless, indemnify and defend HSP for any use of wading pool and any claims of injuries or damages from use or misuse of the wading pool.
3. If Client does not have a separate cleaning service, HSP may provide limited janitorial services for the bathhouse. However, HSP's personnel will only perform limited janitorial services for the bathhouse when HSP determines that such janitorial services do not affect the lifeguarding duties for the persons using the swimming pool and such bathhouses and locker rooms are not shared with gyms and leasing offices. Such janitorial services are not meant to be a substitute for sanitization or disease prevention.
4. HSP will straighten Client's pool furniture and the pool area daily or as is needed.
5. HSP will brush, vacuum and skim pool(s) daily or as required at the beginning of their shifts. HSP will also provide extra, additional cleaning if Client requests same in advance and agrees to pay an additional fee.
6. HSP will clean skimmer baskets, backwash filter system and/or hand clean cartridge filters daily or as needed.
7. HSP will check water purity, acidity, and disinfectant levels to comply with local Health Department standards and, in compliance with the local and state Health Department Codes, HSP will test disinfectant and pH levels hourly and adjust if needed. HSP may test for total alkalinity, calcium hardness and cyanuric acid will be conducted as required by local Health Department codes and regulations for swimming pools.
8. HSP will conduct two (2) written inspections per week or with such frequency as HSP and Client agree. HSP will meet with Client periodically to discuss pool operation at Client's reasonable request.
9. HSP shall have the exclusive right to decide when to close the pool or pools and the pool premises in the event of any event that HSP deems in its sole discretion to create an unsafe environment including but not limited to any safety concern, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing concern, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which excuses or delays HSP's performance. HSP shall close the pool or pools and the pool premises in the event of lightening or thunder and will reopen the pool premises forty-five (45) minutes after last occurrence of thunder or lightening or as the regulations of the local Health Department require. HSP shall not be in any way liable to Client or to Client's members, invitees, patrons and guests for any damages, delays in services, or any inconveniences because of the closing of the pool or pools or pool premises. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility for any of the reasons outlined in this paragraph.
10. HSP shall also close the pool and pool premises in accordance with local and applicable state regulations if control of disease is required or if vomit, human feces, animal feces, deceased animals, or other foreign or chemical agent is introduced into the pool water to perform additional maintenance and super-chlorination and cleaning if HSP determines such work is necessary for the health and safety of Client's members, invites, patrons and guests and for the use of the pool or pools. If additional chemicals are required, HSP will charge Client for the additional chemicals used and Client is responsible to pay the charges for the additional clients. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility.
11. If the pool is closed for reasons outside of HSP control for more than ten (10) consecutive days (including but not limited to inclement weather), Owner/Agent/Client is eligible for refund of 50% of daily operating costs for any consecutive closed days after 10th day. Daily operating cost shall be defined as 1% of the total contract price specified in the Section 1 (specification). HSP is not required to provide lifeguards while pool is closed.
12. If a holiday falls on a day that the pool is scheduled to be closed, HSP will open the pool for that holiday and close the pool on the following day instead, at the discretion of HSP.
13. HSP will schedule a ten (10) minute break each hour that the pool premises are open in order to allow its personnel to perform water testing, equipment checks, clean-up duties, and bathhouse and pool house inspections and to allow its lifeguard to have a break from lifeguarding duties and surveillance, at which time HSP shall order all persons to be out of the pool or pools and to be away from the water.
14. HSP's personnel are not ever responsible for any persons who use the wading pools and wading pool premises, including any minors with or without supervision by a parent or a legal guardian. Client will notify its members, invitees, patrons and guests that all minors must be supervised at the pool premises by a parent or a legal guardian and that HSP assumes no responsibilities for the use of the wading pool.
15. After closing the pool for the day during this Agreement, HSP will lock and secure the pool premises. However, Client remains solely responsible for insuring that adequate security measures exist and are functional. HSP shall have no responsibility or liability whatsoever for the pool premises after its personnel close the pool and pool premises or its personnel have left or exited the pool premises and/or pool facility, including but not limited to unauthorized or illegal usage of the pool by trespassers or if Client allows its members, invitees, patrons and guests to use the pool when HSP personnel are not present performing lifeguarding duties.

SECTION 5. POOL CHEMICALS, SUPPLIES AND MATERIALS:

1. HSP will obtain chemicals, to balance disinfectant and pH levels required by the local health department or regulatory agencies for the operation of the pool and shall pay for such chemicals as part of its services under this Agreement. Owner agrees to be responsible for any additional chemicals needed and supplied such as bromine, granular chlorine (calcium hypochlorite), test reagents, test kits, sodium bicarbonate, calcium chloride, cyanuric acid, algicide etc
2. Client is responsible for the additional costs for treatment of unusual or abnormal water and pool conditions due to the presence of metals, high levels of phosphates, leaking swimming pool, inadequate filtration, any equipment or mechanical failures or other irregular conditions. HSP will notify Client of the additional costs, and Client shall promptly pay for the additional costs.

SECTION 6. HSP PERSONNEL:

1. All personnel employed by HSP to perform any services or work under this Agreement shall be employees of HSP for all purposes and not the employees of Client. HSP shall be solely responsible for all compensation paid to its employees and shall pay all payroll obligations, including Social Security and Medicare payments, FUTA, FICA, and taxes related to the work of its employees if applicable. HSP shall provide any legal benefits and shall provide worker's compensation benefits to its personnel. HSP shall ensure that its personnel hold required licenses and certifications. HSP will require its personnel to wear HSP's uniforms. HSP's personnel will have appropriate lifeguarding certification and pool operator's licenses and display such documentation as required by local and/or state law and regulations.
2. The number of personnel is based upon the ratio required for pool staffing and is based upon HSP's industry experience of the minimum number of personnel required for a potentially safe operation of the pool and pool premises. Consequently, if the number of pool patrons consistently varies from Client's estimate, the number of HSP's personnel will be adjusted as mutually determined by HSP and Client and the compensation due to HSP under this Agreement will be adjusted accordingly by Addendum to this Agreement executed by HSP and Client.
3. HSP has the exclusive right and sole discretion to increase the number of its lifeguarding personnel in order to maintain an acceptable ratio of lifeguards to pool users or to limit the number of pool users permitted at the pool premises as HSP determines in its sole discretion. In the unlikely event that Client will not agree to authorize and pay for the additional lifeguarding staff that HSP has determined is adequate, then and in that event, HSP may immediately terminate this Agreement without any notice to Client or may close the pool premises. Additional costs for lifeguard or for additional lifeguarding hours will be billed separately to Client at the price indicated within this Agreement or the Addendum if HSP increases its personnel because of its discretionary judgment that an increase is necessary to operate the pool.
4. HSP lifeguarding personnel shall hold nationally recognized lifeguarding certificates or other certification where required by the codes and local Health Department or regulatory agencies. HSP shall have the sole discretion as to the hours and days worked by its personnel for Client.
5. Client may request that HSP supply additional personnel for an additional fee of \$30 per hour for each partial hour or as otherwise specified by HSP per worker which fees are in addition to HSP's regular compensation set forth in this Agreement.
6. If Client is dissatisfied with any of HSP's personnel, Client shall provide HSP with a written statement of the reasons for its dissatisfaction and with the name of the worker. HSP will replace an employee if it determines that the Client's dissatisfaction is valid and reasonable within seventy-two (72) hours or no later than (3) business days when possible for HSP to do so.
7. If Client requires background checks or other specialized employment screening, Client must outline its requirement within thirty (30) days of full execution of this Agreement and provide the written policy or regulation that permits any specialized employment screening and shall pay any additional costs of HSP incurred by it for such screening and increased administrative costs for HSP, which will be billed as a separate fee to Client. HSP will provide documentation of the screening conducted when available to Client.
8. Client shall provide free parking for HSP's personnel.

SECTION 7. SPECIAL EVENTS AND SWIM TEAM EVENTS:

1. If Client allows pool or pools or pool premises to be used for special events and activities including but not limited to swim team practice, swim meets, aerobics classes, swim classes, pool parties, and other special use of the pool premises, either inside or outside the contracted hours for HSP personnel; HSP shall not be required to provide services for those special events and activities unless Client shall specifically hire HSP to provide personnel to perform services for those special events and activities. HSP has the right to refuse to provide services for any special events or activities. HSP shall provide advanced notice of its decision to refuse to provide services and shall not be liable or responsible for any damages or for any inconvenience to any person or entity or to Client for its decision to refuse to provide services for any special events or activities.
2. Upon Client's written request at least 7 days before any special events, HSP may provide personnel for special events and activities at a rate of twenty-five dollars (\$25.00) per hour per additional lifeguarding personnel and at a rate of thirty dollars (\$30.00) per pool manager or pool operator. Client must provide an estimated schedule and an estimate of the number of persons expected to participate and attend the special events and activities. Client must authorize and pay for a ratio of one lifeguard per twenty-five participants and attendees of any special events and activities.
3. HSP has the right and authority to eject any persons who do not comply with the pool rules or regulations or who engage in potentially unsafe conduct. If those persons who are asked to leave refuse to leave the pool premises, HSP may close the pool premises for the special events and activities upon notification to Client of its intent to close the pool premises. Client is at all times ultimately responsible for the conduct of its pool members, invitees, patrons, and guests and for the security of the pool premises and safety of HSP's personnel.

SECTION 8. SEASONAL CLOSING AND WINTERIZATION SERVICES:

HSP will perform the following services to winterize the pool facility after closing and on or before November 15th unless Client and HSP agree on a date certain:

1. HSP will backwash filtration system and remove drain plugs from filters that require draining and that are capable of draining.
2. HSP will drain recirculating and vacuum lines that require draining and are so constructed that they can be drained.
3. HSP will drain pumps and water lines that require draining.
4. HSP will unplug disinfectant feeders and chlorinator(s).
5. HSP will adjust water level.
6. If Client requests, HSP will install winterizing chemicals to control algae, at Client's cost for chemicals.
7. HSP will move and store diving boards, ladders, handrails, lifeguard chairs, pool fixtures, test equipment, first aid equipment, furniture, hoses, and other pool property within pool premises as requested by Client.
8. HSP will blow out skimmer line with compressor and add antifreeze.
9. HSP will install pool cover provided by Client so long as deck anchors and cover springs belonging to Client are functional and available. Client may have to replace deck anchors, cover springs and cover at Client's costs.
10. HSP will shut off main water supply, unless underground and within pool premises. Otherwise, HSP will notify Client of its responsibility to Water Authority if main water supply is located outside of pool enclosure or is underground.
11. HSP will provide OWNER with winterization report, lock pool premises and return all sets of keys and key cards to Client. When Client receives the winterization report as acknowledged by the Client's or HSP's signature, Client accepts the winterization as satisfactory and complete.
12. Client understands and releases HSP from any liability as to the winterization of the pool premises by HSP and acknowledges that HSP is not be responsible for freeze damage, wear, tear and other problem and that winterization is not a guarantee that damage will not occur, due to the complicated nature of plumbing systems and water condensing within drained pipes and due to weather extremes except in the case of HSP's gross negligence.

SECTION 9. COMPENSATION TO HSP:

1. This Agreement presumes that certain costs are fixed as of the date that HSP provides it services. However, in the event that the minimum wage is increased by any federal, state or local government agency, then Client agrees to adjust and increase the total compensation for the increase in the minimum hourly wages payable to HSP's personnel.
2. At Client's request, HSP may continue to perform services and to operate the pool or pools beyond the closing date set forth in Section 1. However, the date and times must be mutually agreeable to HSP and Owner and be set forth in a separate written addendum.
3. Client agrees to reimburse HSP membership fees paid to Compliance Depot, RMIS and other insurance verification vendors.
4. Any compensation owed by Client to HSP shall be paid in full within thirty (30) days of the invoice date or on the mandated date of payment above. Client shall pay HSP late fees of five percent (5 %) of the total owed for any payments that are not paid in full by the due date per month that Client owes HSP in addition to any other rights and remedies that HSP may have under this Agreement. HSP shall also be entitled to reasonable attorney's fees and costs for collection of any monies owed by Client to HSP.
5. HSP may suspend service temporarily or terminate this agreement with 5 days written notice in the event of non-compliance by Client or in the event payment is not received as outlined on the specification page.

SECTION 10. EQUIPMENT REPAIRS:

1. If Client hires HSP to perform repairs to the pool equipment and to the pool premises or to replace pool equipment to continue the operation of the pool or to maintain health and safety standards required for the pool to operate, those services will be extra and in addition to the services provided in Section 7. HSP will perform all such work in accordance with federal, state, county, local, and governmental codes and regulations.
2. HSP will notify Client of any repairs or replacement of equipment that HSP determines is needed to continue the operation of the pool or to maintain the health and safety standards required for the pool to operate. HSP will submit a written proposal of the estimated costs for equipment, applicable taxes, parts and labor, which Client must approve before HSP is obligated to begin work. Once HSP begins the work approved by Client, Client is liable to pay HSP for its extra or additional services when completed.
3. It is understood and agreed to by Client that it shall pay all invoices for repair or replacement of equipment from thirty (30) days of the date of the invoice sent to Client by HSP unless HSP requests that Client pay in advance for replacement parts and equipment.
4. Any major service projects, for example but not limited to: pool resurfacing; deck, tile and coping replacement; pump room re-piping, pump and filter replacement – conducted by other than HSP vendors – those repairs need to be completed at least 3 weeks before scheduled opening day. If the deadline cannot be met, HSP cannot guarantee on-time opening.

SECTION 11. INSURANCE:

1. HSP shall maintain public liability insurance to cover accidents and injuries of pool users, including loss of life, directly due to the negligence of HSP and its personnel for accidents that occur within the pool premises during the contracted pool hours when HSP is providing services.
2. Client and HSP agree that Client shall also maintain public liability insurance to provide coverage for claims or injuries that may be sustained by any person while on the Client's premises, including the pool premises. Client shall maintain adequate public liability coverage for any special events or activities held at the pool premises (as detailed in Section 5) and to protect it from any liabilities occurring upon the swimming pool facility premises, regardless of whether HSP provides any lifeguarding services.

3. Client's public liability insurance shall be primary to the insurance of HSP unless HSP and Client agree in writing that HSP's insurance will be primary for any claims arising out of the alleged negligence of HSP and its employees. In the event that Client wishes to have it named as an additional insured or wishes another person or entity to be named as an additional insured on HSP's policy, Client will pay for the costs of such additional or extra coverage from HSP's insurer.

SECTION 12. RELEASE, INDEMNIFICATION AND LIMITATION OF LIABILITY:

1. Client expressly recognizes that the use of a swimming pool is a potentially dangerous activity and involves risks of injury and death. Consequently, Client agrees that HSP shall have no liability whatsoever for any claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility by Client or by any person arising out of this Agreement and arising out of the services provided by HSP to Client. Client releases HSP and its personnel from any and all liabilities, claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility arising out of this Agreement or for any reason other than the gross negligence or willful misconduct of HSP and its personnel, including but not limited to any claims of negligent performance of lifeguarding, of inadequate security, or any claims alleged to be due to mechanical failure of equipment, faulty or defective maintenance or construction of the swimming pool facility, or hydrostatic conditions.
2. Client releases HSP from any service interruption or any decisions by HSP to delay opening of the swimming pool facility or to close the swimming pool and the pool premises because of HSP's decision or HSP's concern about safety, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing adequacy, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which adversely impacts, excuses or delays HSP's performance.
3. Client shall indemnify and hold harmless HSP and its personnel from any and all liabilities, claims, damages, losses, and expenses, including reasonable attorney's fees and costs, arising from and or related to any act, failure to act, or negligence on the part of the Client or arising out of the use of the pool premises for special events and activities or arising from any premises claim and from any claim about mechanical failure of equipment, faulty or defective maintenance or construction of the pool premises, or hydrostatic pressure.
4. In no event, shall the indemnification and limitation of liability provision in this Section release either Client or HSP's insurers from those insurers' obligations to defend and to indemnify or any of their respective duties under the terms of any policy or policies of insurance.

SECTION 13. TERMINATION OF AGREEMENT:

1. Time of the Essence for Execution of this Agreement: Client and HSP agree that HSP has the option to terminate and declare this Agreement void if it is not executed by Client and returned to HSP by February 1st or within 2 weeks if submitted after February 1st.
2. Notice Termination: Either Client or HSP may terminate this Agreement without cause and at any time after execution by providing the other party with thirty (30) days written notice to other party of the intent to terminate the agreement. This Agreement will then terminate on the thirty-first date from the date of the notice. HSP is entitled to be paid for its services provided to Client, and termination of this Agreement will not affect Client's obligation of payment.
3. In the event that Client fails to make any of the payments required under this Agreement, fails to comply with any of the terms of this Agreement, or breaches any of the terms of this Agreement, HSP shall be entitled to terminate this Agreement for cause immediately. Upon written notice of termination sent by HSP to Client, HSP will have the right to cease all services to Client and will have the right to avail itself of any legal and equitable rights and remedies. Client agrees and shall pay HSP's reasonable attorney's fees and costs incurred because of Client's failure to pay timely HSP for its services.
4. In the event that Client believes that HSP has breached the terms of this Agreement, then Client shall give written notice of the alleged breach or non-compliance of the term of this Agreement and allow HSP seventy-two (72) hours from the date that HSP receives and acknowledges notification from Client to correct or cure the alleged breach or non-compliance. If Client does not agree that HSP has corrected or cured the alleged breach after the seventy-two hours period of time, then this Agreement will terminate on the next business date that HSP is required to perform services for Client.
5. Client agrees that it is not a breach of this Agreement by HSP if HSP cannot provide its services under this Agreement by reason of unanticipated issues, circumstances, or acts beyond HSP's control such as by example immigration and visa issues (denials), strike, labor dispute, failure of utilities, change in immigration policies, changes in or retroactive laws or regulations, war, weather event, act of God, force majeure or any other reason that unforeseeably delays or interferes with HSP's performance of service under this Agreement. Any delay in HSP being able to provide services shall give client no right to terminate this Agreement. HSP has a right to renegotiate contract price should any of the above take place that will affect HSP ability to hire sufficient number of lifeguards.
6. In the event that Client or HSP shall become bankrupt, insolvent, or shall make a voluntary assignment for the benefit of creditors, either Client or HSP may terminate this agreement immediately by providing the other with written notice of termination.
7. The termination of this Agreement does not in any way release Client from its duties and obligations, including the obligation to pay HSP any monies owed to HSP for its services, including but not limited to the remaining compensation still owed to it under Section 1. Additionally, the termination of this Agreement does not void Section 9 which continues in full force and effect forever. Furthermore, the termination of this Agreement does not affect the obligations or duties of Client's insurer or HSP's insurer.

SECTION 14. NON-COMPETITION PROTECTION:

Following the term of this Agreement, Client agrees not to hire or to contract with HSP's current or former employees to provide pool management services and agrees not to hire or to contract with any company in which HSP's current or former employees work in a management position for a period of two (2) years from the date that this Agreement terminates.

SECTION 15. GOVERNING LAW, INTERPRETATION, AND NO WAIVER:

This Agreement shall in all respects be interpreted, enforced and governed under the laws of the Commonwealth of Virginia, without regard to its conflicts of law provisions. The provisions of this Agreement shall be deemed severable, and the validity or non-enforceability of any provision shall not affect the validity or enforceability of the other provisions of this Agreement. In the event of a dispute as to the meaning of any provision, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted either for or against either of the Parties hereto on the ground that such party drafted or caused to be drafted this Agreement or any part hereto. No provision of this Agreement may be waived except by a written agreement. A waiver of any term or provision shall not be construed as a waiver of any term or provision. The failure of any party to insist upon the strict performance of any understanding or term shall not be construed as a waiver or relinquishment of the right to insist upon the strict performance that understanding or term.

SECTION 16. ENTIRE AGREEMENT:

The Parties acknowledge that they have not relied on any representation or statement, written or oral, not set forth in this Agreement, and the provisions contained in this Agreement represent the entire agreement between the Parties and modify and supersede any and all prior agreements, correspondence, or communications concerning the subject matter of this Agreement.

SECTION 17. REVIEW AND UNDERSTANDING OF THIS AGREEMENT:

The Parties represent that, prior to signing this Agreement, they have read it, understood its terms and conditions voluntarily signed it.

SECTION 18: ACKNOWLEDGEMENT OF AUTHORITY:

Any individual signing this Agreement on behalf of any Party warrants and represents that he or she has all necessary and appropriate authority and approvals to bind and execute this Agreement on behalf of all entities and in all capacities for which they sign.

IN WITNESS, WHEREOF, the undersigned and authorized representatives of Client and HSP each duly execute this Agreement on the respective dates listed below, evidencing each of their binding agreement to this Agreement and its terms.

High Sierra Pools, Inc.

Client:

By: RKaczor 12/01/2021
Signature of Authorized Agent Date

By: _____
Signature of Authorized Agent Date

SWIMMING POOL MANAGEMENT AGREEMENT

WHEREAS, High Sierra Pools Inc. (HSP) offers pool management services for the operation of commercial swimming pools and is an independent contractor; WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements between the parties where those agreements or contracts conflict with the terms of this Agreement; WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating constraints; NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 1. GENERAL SPECIFICATIONS:

OWNER / AGENT	PROPERTY NAME	SWIM FACILITY NAME
Parkfairfax UOA 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Condominium 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Lyons Lane Pool B 3717 Lyons Lane Alexandria, VA, 22302
POOL OPERATION HOURS		POOL PERSONNEL
Main Season: May 28, 2022 - Sep 5, 2022		Lifeguard 107
Mon POOL CLOSED	Fri 12:00PM-8:00PM	
Tue 12:00PM-7:00PM	Sat 11:00AM-8:00PM	
Wed 1:00PM-8:00PM	Sun 11:00AM-7:00PM	
Thu POOL CLOSED	Hol 11:00AM-8:00PM	
		Weekly Staff Hours: 107

ADDITIONAL INFORMATION

Included at NO Additional Cost: Disinfectant and PH Balancer, Liability Insurance, Area Supervisor, Spring Opening, Test Kits and Summer Reagents, Winterization

Lifeguards will have valid CPR/AED, LFG/First Aid and Pool Operator Certificates. An area supervisor will perform minimum 2 weekly inspections. Lifeguards will arrive 1 hour prior to opening for cleaning of the pool and bathrooms. Pool Opens on June 19th.

PAYMENT SCHEDULE

Due on Jan 1, 2022	\$3,083.00	Due on Jun 1, 2022	\$3,083.00	Due on Nov 1, 2022	\$3,083.00
Due on Feb 1, 2022	\$3,083.00	Due on Jul 1, 2022	\$3,083.00	Due on Dec 1, 2022	\$3,087.00
Due on Mar 1, 2022	\$3,083.00	Due on Aug 1, 2022	\$3,083.00		
Due on Apr 1, 2022	\$3,083.00	Due on Sep 1, 2022	\$3,083.00		
Due on May 1, 2022	\$3,083.00	Due on Oct 1, 2022	\$3,083.00		
					Contract Price \$37,000.00

EXTRA SERVICES*

* Initial each to approve; each billed separately, each priced per year

OPTIONAL YEARS*

___ 2023 \$39,200.00

* Initial to extend Swimming Pool Management Agreement at listed price

WHEREAS, High Sierra Pools, Inc. ("HSP") offers pool management services for the operation of commercial swimming pools and is an independent contractor;

WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements or contracts between the parties where those agreements or contracts conflict with the terms of this Agreement and shall govern the relationship between HSP and Client;

WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating risks and constraints;

NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 2. SCOPE OF AGREEMENT:

Subject to the terms set forth herein in this Agreement, the Parties contemplate that HSP will provide certain pool management services which include the opening, operation of and management of Client's swimming pool or pools. HSP and Client will mutually agree upon and select an opening date for the swimming pool or pools so long as the opening date is not delayed or prevented by unforeseen or unknown events; by mechanical failures of equipment necessary to the operation of the swimming pool or pools, by repairs or replacement of equipment necessary to the operation of the swimming pool, by interruption of utilities necessary to the operation of the swimming pool, by failure to obtain annual certificates or other permits, by inadequate seasonal staffing availability or by any reason beyond the exclusive control of HSP.

SECTION 3. RESPONSIBILITIES OF CLIENT:

Client shall perform the following items in order for HSP to provide the responsibilities listed in Section 4 below:

1. Client shall ensure that the pool and that the pool equipment room is at all times available to HSP for it to perform its services while this Agreement is in effect and will provide HSP with full access to the pool on or before but no later than by April 1st of the first year of this Agreement in order for the pool to be drained and cleaned for the contemplated and mutually agreed upon date for the opening of the pool.
2. Client shall develop and provide a copy of the pool rules/regulations that it desires be applied to the pool operation and to the use of the pool. Client shall provide a mechanism to control or limit the use of the pool as required by law. Client will distribute those pool rules among its members and residents before the start of the season. Client shall provide and deliver to HSP the pool pass system to be utilized for Client's pool members, invitees, patrons, and guests. Client shall be solely responsible for the issuance and distribution of pool passes to be used for entry and access to the pool for its members, invitees, patrons, and guests.
3. Client is solely responsible providing all the security for the pool. At a minimum, Client shall provide working locks on all doors, gates and windows and shall maintain those locks. Client is solely responsible for providing and maintaining high quality and good condition fencing, walls and other appropriate barrier to ensure a secure enclosure around the pool during the time that this Agreement is in effect. Client shall provide a security system or alarm system if necessary to secure the pool and pool area. Upon reasonable request by HSP, Client will provide security guards to protect HSP's personnel and to protect Client's members, invitees, patrons, and guests.
4. Client will notify HSP of any defects, deficiencies, and/or maintenance issues as to the pool and pool premises, including but not limited to any issues with the fencing, gates, doors, locks, windows, pool equipment, pump, chlorinator, vacuum, lifeguard stands, and/or other fixtures.
5. Client shall provide a minimum of two (2) sets of keys or key cards for the pool by April 1st of this Agreement so that HSP and its personnel shall have access to any doors, gates, bathhouses, pool equipment room, lifeguard room/office, storage and/or any other areas that HSP needs for pre-opening services and for operation of the pool. If HSP is required to copy keys or key cards, Client agrees to pay for the costs of the duplicates so that HSP always has a minimum of three sets of keys or key cards.
6. Client will provide three large industrial sized trash cans with lids and one large industrial/commercial sized recycling bin with lid and trash bags for use by HSP's personnel and for pool members, invitees, patrons, and guests. Client is responsible for providing and paying for any trash removal and sanitation services and for recycling services for the pool.
7. Client will provide copies of health department inspections and/or violations from prior seasons for operation of the pool and Client shall provide all the necessary documentation regarding the pool license.
8. Client will pay for the costs to apply for and to obtain any certificates or permits required by regulatory agencies to operate the pool and pool facility unless specified otherwise in Section 1 of this contract. Administrative fees will apply to permit processing applications.
9. Client will provide an operational landline telephone connected and functional by May 1st for 911 calls and other necessary, business related local calls. The pool telephone must be blocked for long distance and international and collect calls. Client is responsible for any long distance, international and collect calls made from the pool telephone if Client fails to block the telephone use for any calls except for local and emergency telephone usage. In case landline is not available Client is required to provide 911 Call Box that is directly connected with emergency services.
10. Client is responsible for maintenance and repair of the pool premises and building premises and the toilet and shower partitions, drywall, plumbing and electrical systems are delivered to HSP and are always maintained in a safe and good working condition during this Agreement. Client shall promptly complete any and all necessary maintenance and repairs to the pool premises and pool equipment within the pool premises including but not limited to repair and maintenance of walls, drywall, plumbing, electric systems, windows, plumbing, decking, coping, tile, fencing, locking mechanisms, locks, security systems, area lights, and other items that HSP requires for a safe and successful operation of the pool. Client shall also be responsible for the maintenance and repair of the pool premises, building premises, and any premises adjacent to the pool premises to ensure that there are no defects, deficiencies or other unsafe conditions.

11. HSP is not responsible for water damages caused by lack of waterproofed floors and walls in clubhouses, pump rooms and other rooms used by HSP personnel.
12. Client shall provide HSP with any equipment requested by HSP to maintain and to clean the pool premises, including but not limited to mops, hoses, brooms, leaf blowers, toilet plungers and hose nozzles that HSP shall need to clean and maintain the pool premises in the good condition provided by Client before start of the season unless Client and HSP have agreed otherwise and Client pays HSP for providing those items.
13. Client shall provide HSP at Client's sole expense with any and all first aid and lifesaving equipment required by the local health department, Red Cross, or other regulatory agency, including but not limited to backboards with three straps and buckles and head immobilizer with two straps, rescue tubes (one per lifeguard), shepherd's (body) hooks attached to at least 12 feet non-telescopic poles and ring buoys, and AED if required by the county health code.
14. Client shall perform the initial cleaning of the bathhouses and bathrooms. Client shall also provide any additional cleaning and disinfection required by law or recommended to prevent disease exposure. Client shall provide soap, paper towels, tissues, toilet paper, cleaning supplies and other consumable supplies as needed throughout the pool season unless otherwise Client and HSP have agreed otherwise and Client pays HSP for providing those items.
15. Client shall provide, by April 1st, operational hot water heaters, mixing valves and scalding devices as required by local authorities in order to pass the pre-opening inspection for the pool to operate.
16. Client shall supply water and be responsible for water bills. If HSP determines that Client's swimming pool or pools need to be drained and refilled, Client will be responsible for any and all water costs.
17. Client shall provide any OSHA approved Personal Protective Equipment ("PPE") and devices, including, but not limited to an eye wash station, chemical apron, goggles gloves and dust mask. Client shall also provide any special equipment and supplies because of COVID-19 such as hand washing or hand sanitizer stations or other equipment recommended by the Centers for Disease Control or the American Red Cross.
18. Client authorizes HSP to post a sign at the pool premises, that identifies HSP as the pool management company for the pool.
19. Client shall post warning signs that indicate risk of use pool and lack of lifeguard on duty for the wading pool on the wading pool gates and/or fences.
20. Client shall provide any fixtures for the pool or pools and Client shall solely be responsible for the repair or replacement of any fixtures for the pool as determined by HSP, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items.
21. Client shall provide any furniture and/or equipment such as tables, chairs, loungers, and other items that Client wants to be available at the swimming pool or pools. Client is responsible for initial deep cleaning of pool furniture or request HSP to provide such services at an additional cost. Client shall provide each lifeguard station or stand with an umbrella.
22. Client shall give written notice thirty (30) days in advance of any change in the identity of the management company or the agent of Client with whom HSP communicates as to the services provided under this Agreement. Client is responsible for paying all due invoices even after property changes ownership/management.
23. Client shall maintain proper ventilation of the pool, pump room, and pool facilities.
24. If Client allows alcoholic beverages to be brought to the pool premises or to be consumed on the pool premises for special events and activities or if Client's members, invitees, patrons and guests bring or consume alcohol on the pool premises, Client at all times is solely responsible and liable for any damages or consequential loss to any person or entity.

SECTION 4. TERMS OF SERVICE TO BE PROVIDED BY HSP:

HSP will provide the following pool management services:

(a) Pre-Season Services:

1. Prior to the opening of the pool for Client, HSP will perform an inspection of the pool equipment, bathhouse plumbing, filtration system, fixtures and freshwater plumbing system to determine if pool system is fully operational.
2. HSP will remove any pool cover(s) and will store on the premises of Client. For additional expense and at Client's request and approval of additional expense, HSP will store pool cover or pool covers off site for Client.
3. HSP will drain and clean the swimming pool at its discretion if HSP determines that cleaning is necessary.
4. HSP shall fill pool and start recirculation system as part of its pre-season services
5. HSP will install any of Client's fixtures for the pool, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items if applicable, so long as all such fixtures are in good condition and are not in need of any repair.
6. HSP will move client's furniture and equipment that Client wants to be available at the swimming pool and arrange it as Client specifies. HSP is not responsible for the condition of any furniture and/or equipment.
7. HSP shall use its reasonable best efforts to prepare Client's pool in a swim-ready condition at least five (5) business days prior to the opening date.
8. If not otherwise specified in Section 1, once Client pays fees and costs for applications and for permits, provides all necessary documentation, HSP will apply for all required permits and/or authorizations and lab testing required by local Health Department and regulatory agencies (unless otherwise specified in section 1) to operate the pool or pools and to have pool be in an operational condition and attend any required inspections. HSP will post all permits and certificates in Client's designated area. If certificates and/or permits for operating cannot be acquired by HSP due to any circumstance beyond the exclusive control of HSP, it shall be the responsibility of Client to secure certificates and permits for the opening of the swimming pool.
9. HSP will provide any SDS required for chemicals to Client.

(b) Operational Services:

1. When the pool is open for the use of Client's members, invitees, patrons and guests, HSP will supply its lifeguard personnel for the opening, operation and closing of the main pool or pools.
2. HSP will only provide limited services to a wading pool on the pool premises, which services include maintenance, repairs, cleaning and water testing and treatment under the same terms as the main pool but which do not include any lifeguarding or monitoring of the wading pool use by HSP's personnel unless Client pays a separate fee to HSP for lifeguarding services for any wading pool. If Client does not pay for lifeguarding services for any wading pools, Client assumes all liability for any claims or damage that occurs in the wading pool or in the wading pool area. Client is responsible for the use of the wading pool and agrees to hold harmless, indemnify and defend HSP for any use of wading pool and any claims of injuries or damages from use or misuse of the wading pool.
3. If Client does not have a separate cleaning service, HSP may provide limited janitorial services for the bathhouse. However, HSP's personnel will only perform limited janitorial services for the bathhouse when HSP determines that such janitorial services do not affect the lifeguarding duties for the persons using the swimming pool and such bathhouses and locker rooms are not shared with gyms and leasing offices. Such janitorial services are not meant to be a substitute for sanitization or disease prevention.
4. HSP will straighten Client's pool furniture and the pool area daily or as is needed.
5. HSP will brush, vacuum and skim pool(s) daily or as required at the beginning of their shifts. HSP will also provide extra, additional cleaning if Client requests same in advance and agrees to pay an additional fee.
6. HSP will clean skimmer baskets, backwash filter system and/or hand clean cartridge filters daily or as needed.
7. HSP will check water purity, acidity, and disinfectant levels to comply with local Health Department standards and, in compliance with the local and state Health Department Codes, HSP will test disinfectant and pH levels hourly and adjust if needed. HSP may test for total alkalinity, calcium hardness and cyanuric acid will be conducted as required by local Health Department codes and regulations for swimming pools.
8. HSP will conduct two (2) written inspections per week or with such frequency as HSP and Client agree. HSP will meet with Client periodically to discuss pool operation at Client's reasonable request.
9. HSP shall have the exclusive right to decide when to close the pool or pools and the pool premises in the event of any event that HSP deems in its sole discretion to create an unsafe environment including but not limited to any safety concern, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing concern, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which excuses or delays HSP's performance. HSP shall close the pool or pools and the pool premises in the event of lightening or thunder and will reopen the pool premises forty-five (45) minutes after last occurrence of thunder or lightening or as the regulations of the local Health Department require. HSP shall not be in any way liable to Client or to Client's members, invitees, patrons and guests for any damages, delays in services, or any inconveniences because of the closing of the pool or pools or pool premises. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility for any of the reasons outlined in this paragraph.
10. HSP shall also close the pool and pool premises in accordance with local and applicable state regulations if control of disease is required or if vomit, human feces, animal feces, deceased animals, or other foreign or chemical agent is introduced into the pool water to perform additional maintenance and super-chlorination and cleaning if HSP determines such work is necessary for the health and safety of Client's members, invites, patrons and guests and for the use of the pool or pools. If additional chemicals are required, HSP will charge Client for the additional chemicals used and Client is responsible to pay the charges for the additional clients. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility.
11. If the pool is closed for reasons outside of HSP control for more than ten (10) consecutive days (including but not limited to inclement weather), Owner/Agent/Client is eligible for refund of 50% of daily operating costs for any consecutive closed days after 10th day. Daily operating cost shall be defined as 1% of the total contract price specified in the Section 1 (specification). HSP is not required to provide lifeguards while pool is closed.
12. If a holiday falls on a day that the pool is scheduled to be closed, HSP will open the pool for that holiday and close the pool on the following day instead, at the discretion of HSP.
13. HSP will schedule a ten (10) minute break each hour that the pool premises are open in order to allow its personnel to perform water testing, equipment checks, clean-up duties, and bathhouse and pool house inspections and to allow its lifeguard to have a break from lifeguarding duties and surveillance, at which time HSP shall order all persons to be out of the pool or pools and to be away from the water.
14. HSP's personnel are not ever responsible for any persons who use the wading pools and wading pool premises, including any minors with or without supervision by a parent or a legal guardian. Client will notify its members, invitees, patrons and guests that all minors must be supervised at the pool premises by a parent or a legal guardian and that HSP assumes no responsibilities for the use of the wading pool.
15. After closing the pool for the day during this Agreement, HSP will lock and secure the pool premises. However, Client remains solely responsible for insuring that adequate security measures exist and are functional. HSP shall have no responsibility or liability whatsoever for the pool premises after its personnel close the pool and pool premises or its personnel have left or exited the pool premises and/or pool facility, including but not limited to unauthorized or illegal usage of the pool by trespassers or if Client allows its members, invitees, patrons and guests to use the pool when HSP personnel are not present performing lifeguarding duties.

SECTION 5. POOL CHEMICALS, SUPPLIES AND MATERIALS:

1. HSP will obtain chemicals, to balance disinfectant and pH levels required by the local health department or regulatory agencies for the operation of the pool and shall pay for such chemicals as part of its services under this Agreement. Owner agrees to be responsible for any additional chemicals needed and supplied such as bromine, granular chlorine (calcium hypochlorite), test reagents, test kits, sodium bicarbonate, calcium chloride, cyanuric acid, algicide etc
2. Client is responsible for the additional costs for treatment of unusual or abnormal water and pool conditions due to the presence of metals, high levels of phosphates, leaking swimming pool, inadequate filtration, any equipment or mechanical failures or other irregular conditions. HSP will notify Client of the additional costs, and Client shall promptly pay for the additional costs.

SECTION 6. HSP PERSONNEL:

1. All personnel employed by HSP to perform any services or work under this Agreement shall be employees of HSP for all purposes and not the employees of Client. HSP shall be solely responsible for all compensation paid to its employees and shall pay all payroll obligations, including Social Security and Medicare payments, FUTA, FICA, and taxes related to the work of its employees if applicable. HSP shall provide any legal benefits and shall provide worker's compensation benefits to its personnel. HSP shall ensure that its personnel hold required licenses and certifications. HSP will require its personnel to wear HSP's uniforms. HSP's personnel will have appropriate lifeguarding certification and pool operator's licenses and display such documentation as required by local and/or state law and regulations.
2. The number of personnel is based upon the ratio required for pool staffing and is based upon HSP's industry experience of the minimum number of personnel required for a potentially safe operation of the pool and pool premises. Consequently, if the number of pool patrons consistently varies from Client's estimate, the number of HSP's personnel will be adjusted as mutually determined by HSP and Client and the compensation due to HSP under this Agreement will be adjusted accordingly by Addendum to this Agreement executed by HSP and Client.
3. HSP has the exclusive right and sole discretion to increase the number of its lifeguarding personnel in order to maintain an acceptable ratio of lifeguards to pool users or to limit the number of pool users permitted at the pool premises as HSP determines in its sole discretion. In the unlikely event that Client will not agree to authorize and pay for the additional lifeguarding staff that HSP has determined is adequate, then and in that event, HSP may immediately terminate this Agreement without any notice to Client or may close the pool premises. Additional costs for lifeguard or for additional lifeguarding hours will be billed separately to Client at the price indicated within this Agreement or the Addendum if HSP increases its personnel because of its discretionary judgment that an increase is necessary to operate the pool.
4. HSP lifeguarding personnel shall hold nationally recognized lifeguarding certificates or other certification where required by the codes and local Health Department or regulatory agencies. HSP shall have the sole discretion as to the hours and days worked by its personnel for Client.
5. Client may request that HSP supply additional personnel for an additional fee of \$30 per hour for each partial hour or as otherwise specified by HSP per worker which fees are in addition to HSP's regular compensation set forth in this Agreement.
6. If Client is dissatisfied with any of HSP's personnel, Client shall provide HSP with a written statement of the reasons for its dissatisfaction and with the name of the worker. HSP will replace an employee if it determines that the Client's dissatisfaction is valid and reasonable within seventy-two (72) hours or no later than (3) business days when possible for HSP to do so.
7. If Client requires background checks or other specialized employment screening, Client must outline its requirement within thirty (30) days of full execution of this Agreement and provide the written policy or regulation that permits any specialized employment screening and shall pay any additional costs of HSP incurred by it for such screening and increased administrative costs for HSP, which will be billed as a separate fee to Client. HSP will provide documentation of the screening conducted when available to Client.
8. Client shall provide free parking for HSP's personnel.

SECTION 7. SPECIAL EVENTS AND SWIM TEAM EVENTS:

1. If Client allows pool or pools or pool premises to be used for special events and activities including but not limited to swim team practice, swim meets, aerobics classes, swim classes, pool parties, and other special use of the pool premises, either inside or outside the contracted hours for HSP personnel; HSP shall not be required to provide services for those special events and activities unless Client shall specifically hire HSP to provide personnel to perform services for those special events and activities. HSP has the right to refuse to provide services for any special events or activities. HSP shall provide advanced notice of its decision to refuse to provide services and shall not be liable or responsible for any damages or for any inconvenience to any person or entity or to Client for its decision to refuse to provide services for any special events or activities.
2. Upon Client's written request at least 7 days before any special events, HSP may provide personnel for special events and activities at a rate of twenty-five dollars (\$25.00) per hour per additional lifeguarding personnel and at a rate of thirty dollars (\$30.00) per pool manager or pool operator. Client must provide an estimated schedule and an estimate of the number of persons expected to participate and attend the special events and activities. Client must authorize and pay for a ratio of one lifeguard per twenty-five participants and attendees of any special events and activities.
3. HSP has the right and authority to eject any persons who do not comply with the pool rules or regulations or who engage in potentially unsafe conduct. If those persons who are asked to leave refuse to leave the pool premises, HSP may close the pool premises for the special events and activities upon notification to Client of its intent to close the pool premises. Client is at all times ultimately responsible for the conduct of its pool members, invitees, patrons, and guests and for the security of the pool premises and safety of HSP's personnel.

SECTION 8. SEASONAL CLOSING AND WINTERIZATION SERVICES:

HSP will perform the following services to winterize the pool facility after closing and on or before November 15th unless Client and HSP agree on a date certain:

1. HSP will backwash filtration system and remove drain plugs from filters that require draining and that are capable of draining.
2. HSP will drain recirculating and vacuum lines that require draining and are so constructed that they can be drained.
3. HSP will drain pumps and water lines that require draining.
4. HSP will unplug disinfectant feeders and chlorinator(s).
5. HSP will adjust water level.
6. If Client requests, HSP will install winterizing chemicals to control algae, at Client's cost for chemicals.
7. HSP will move and store diving boards, ladders, handrails, lifeguard chairs, pool fixtures, test equipment, first aid equipment, furniture, hoses, and other pool property within pool premises as requested by Client.
8. HSP will blow out skimmer line with compressor and add antifreeze.
9. HSP will install pool cover provided by Client so long as deck anchors and cover springs belonging to Client are functional and available. Client may have to replace deck anchors, cover springs and cover at Client's costs.
10. HSP will shut off main water supply, unless underground and within pool premises. Otherwise, HSP will notify Client of its responsibility to Water Authority if main water supply is located outside of pool enclosure or is underground.
11. HSP will provide OWNER with winterization report, lock pool premises and return all sets of keys and key cards to Client. When Client receives the winterization report as acknowledged by the Client's or HSP's signature, Client accepts the winterization as satisfactory and complete.
12. Client understands and releases HSP from any liability as to the winterization of the pool premises by HSP and acknowledges that HSP is not be responsible for freeze damage, wear, tear and other problem and that winterization is not a guarantee that damage will not occur, due to the complicated nature of plumbing systems and water condensing within drained pipes and due to weather extremes except in the case of HSP's gross negligence.

SECTION 9. COMPENSATION TO HSP:

1. This Agreement presumes that certain costs are fixed as of the date that HSP provides it services. However, in the event that the minimum wage is increased by any federal, state or local government agency, then Client agrees to adjust and increase the total compensation for the increase in the minimum hourly wages payable to HSP's personnel.
2. At Client's request, HSP may continue to perform services and to operate the pool or pools beyond the closing date set forth in Section 1. However, the date and times must be mutually agreeable to HSP and Owner and be set forth in a separate written addendum.
3. Client agrees to reimburse HSP membership fees paid to Compliance Depot, RMIS and other insurance verification vendors.
4. Any compensation owed by Client to HSP shall be paid in full within thirty (30) days of the invoice date or on the mandated date of payment above. Client shall pay HSP late fees of five percent (5 %) of the total owed for any payments that are not paid in full by the due date per month that Client owes HSP in addition to any other rights and remedies that HSP may have under this Agreement. HSP shall also be entitled to reasonable attorney's fees and costs for collection of any monies owed by Client to HSP.
5. HSP may suspend service temporarily or terminate this agreement with 5 days written notice in the event of non-compliance by Client or in the event payment is not received as outlined on the specification page.

SECTION 10. EQUIPMENT REPAIRS:

1. If Client hires HSP to perform repairs to the pool equipment and to the pool premises or to replace pool equipment to continue the operation of the pool or to maintain health and safety standards required for the pool to operate, those services will be extra and in addition to the services provided in Section 7. HSP will perform all such work in accordance with federal, state, county, local, and governmental codes and regulations.
2. HSP will notify Client of any repairs or replacement of equipment that HSP determines is needed to continue the operation of the pool or to maintain the health and safety standards required for the pool to operate. HSP will submit a written proposal of the estimated costs for equipment, applicable taxes, parts and labor, which Client must approve before HSP is obligated to begin work. Once HSP begins the work approved by Client, Client is liable to pay HSP for its extra or additional services when completed.
3. It is understood and agreed to by Client that it shall pay all invoices for repair or replacement of equipment from thirty (30) days of the date of the invoice sent to Client by HSP unless HSP requests that Client pay in advance for replacement parts and equipment.
4. Any major service projects, for example but not limited to: pool resurfacing; deck, tile and coping replacement; pump room re-piping, pump and filter replacement – conducted by other than HSP vendors – those repairs need to be completed at least 3 weeks before scheduled opening day. If the deadline cannot be met, HSP cannot guarantee on-time opening.

SECTION 11. INSURANCE:

1. HSP shall maintain public liability insurance to cover accidents and injuries of pool users, including loss of life, directly due to the negligence of HSP and its personnel for accidents that occur within the pool premises during the contracted pool hours when HSP is providing services.
2. Client and HSP agree that Client shall also maintain public liability insurance to provide coverage for claims or injuries that may be sustained by any person while on the Client's premises, including the pool premises. Client shall maintain adequate public liability coverage for any special events or activities held at the pool premises (as detailed in Section 5) and to protect it from any liabilities occurring upon the swimming pool facility premises, regardless of whether HSP provides any lifeguarding services.

3. Client's public liability insurance shall be primary to the insurance of HSP unless HSP and Client agree in writing that HSP's insurance will be primary for any claims arising out of the alleged negligence of HSP and its employees. In the event that Client wishes to have it named as an additional insured or wishes another person or entity to be named as an additional insured on HSP's policy, Client will pay for the costs of such additional or extra coverage from HSP's insurer.

SECTION 12. RELEASE, INDEMNIFICATION AND LIMITATION OF LIABILITY:

1. Client expressly recognizes that the use of a swimming pool is a potentially dangerous activity and involves risks of injury and death. Consequently, Client agrees that HSP shall have no liability whatsoever for any claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility by Client or by any person arising out of this Agreement and arising out of the services provided by HSP to Client. Client releases HSP and its personnel from any and all liabilities, claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility arising out of this Agreement or for any reason other than the gross negligence or willful misconduct of HSP and its personnel, including but not limited to any claims of negligent performance of lifeguarding, of inadequate security, or any claims alleged to be due to mechanical failure of equipment, faulty or defective maintenance or construction of the swimming pool facility, or hydrostatic conditions.
2. Client releases HSP from any service interruption or any decisions by HSP to delay opening of the swimming pool facility or to close the swimming pool and the pool premises because of HSP's decision or HSP's concern about safety, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing adequacy, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which adversely impacts, excuses or delays HSP's performance.
3. Client shall indemnify and hold harmless HSP and its personnel from any and all liabilities, claims, damages, losses, and expenses, including reasonable attorney's fees and costs, arising from and or related to any act, failure to act, or negligence on the part of the Client or arising out of the use of the pool premises for special events and activities or arising from any premises claim and from any claim about mechanical failure of equipment, faulty or defective maintenance or construction of the pool premises, or hydrostatic pressure.
4. In no event, shall the indemnification and limitation of liability provision in this Section release either Client or HSP's insurers from those insurers' obligations to defend and to indemnify or any of their respective duties under the terms of any policy or policies of insurance.

SECTION 13. TERMINATION OF AGREEMENT:

1. Time of the Essence for Execution of this Agreement: Client and HSP agree that HSP has the option to terminate and declare this Agreement void if it is not executed by Client and returned to HSP by February 1st or within 2 weeks if submitted after February 1st.
2. Notice Termination: Either Client or HSP may terminate this Agreement without cause and at any time after execution by providing the other party with thirty (30) days written notice to other party of the intent to terminate the agreement. This Agreement will then terminate on the thirty-first date from the date of the notice. HSP is entitled to be paid for its services provided to Client, and termination of this Agreement will not affect Client's obligation of payment.
3. In the event that Client fails to make any of the payments required under this Agreement, fails to comply with any of the terms of this Agreement, or breaches any of the terms of this Agreement, HSP shall be entitled to terminate this Agreement for cause immediately. Upon written notice of termination sent by HSP to Client, HSP will have the right to cease all services to Client and will have the right to avail itself of any legal and equitable rights and remedies. Client agrees and shall pay HSP's reasonable attorney's fees and costs incurred because of Client's failure to pay timely HSP for its services.
4. In the event that Client believes that HSP has breached the terms of this Agreement, then Client shall give written notice of the alleged breach or non-compliance of the term of this Agreement and allow HSP seventy-two (72) hours from the date that HSP receives and acknowledges notification from Client to correct or cure the alleged breach or non-compliance. If Client does not agree that HSP has corrected or cured the alleged breach after the seventy-two hours period of time, then this Agreement will terminate on the next business date that HSP is required to perform services for Client.
5. Client agrees that it is not a breach of this Agreement by HSP if HSP cannot provide its services under this Agreement by reason of unanticipated issues, circumstances, or acts beyond HSP's control such as by example immigration and visa issues (denials), strike, labor dispute, failure of utilities, change in immigration policies, changes in or retroactive laws or regulations, war, weather event, act of God, force majeure or any other reason that unforeseeably delays or interferes with HSP's performance of service under this Agreement. Any delay in HSP being able to provide services shall give client no right to terminate this Agreement. HSP has a right to renegotiate contract price should any of the above take place that will affect HSP ability to hire sufficient number of lifeguards.
6. In the event that Client or HSP shall become bankrupt, insolvent, or shall make a voluntary assignment for the benefit of creditors, either Client or HSP may terminate this agreement immediately by providing the other with written notice of termination.
7. The termination of this Agreement does not in any way release Client from its duties and obligations, including the obligation to pay HSP any monies owed to HSP for its services, including but not limited to the remaining compensation still owed to it under Section 1. Additionally, the termination of this Agreement does not void Section 9 which continues in full force and effect forever. Furthermore, the termination of this Agreement does not affect the obligations or duties of Client's insurer or HSP's insurer.

SECTION 14. NON-COMPETITION PROTECTION:

Following the term of this Agreement, Client agrees not to hire or to contract with HSP's current or former employees to provide pool management services and agrees not to hire or to contract with any company in which HSP's current or former employees work in a management position for a period of two (2) years from the date that this Agreement terminates.

SECTION 15. GOVERNING LAW, INTERPRETATION, AND NO WAIVER:

This Agreement shall in all respects be interpreted, enforced and governed under the laws of the Commonwealth of Virginia, without regard to its conflicts of law provisions. The provisions of this Agreement shall be deemed severable, and the validity or non-enforceability of any provision shall not affect the validity or enforceability of the other provisions of this Agreement. In the event of a dispute as to the meaning of any provision, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted either for or against either of the Parties hereto on the ground that such party drafted or caused to be drafted this Agreement or any part hereto. No provision of this Agreement may be waived except by a written agreement. A waiver of any term or provision shall not be construed as a waiver of any term or provision. The failure of any party to insist upon the strict performance of any understanding or term shall not be construed as a waiver or relinquishment of the right to insist upon the strict performance that understanding or term.

SECTION 16. ENTIRE AGREEMENT:

The Parties acknowledge that they have not relied on any representation or statement, written or oral, not set forth in this Agreement, and the provisions contained in this Agreement represent the entire agreement between the Parties and modify and supersede any and all prior agreements, correspondence, or communications concerning the subject matter of this Agreement.

SECTION 17. REVIEW AND UNDERSTANDING OF THIS AGREEMENT:

The Parties represent that, prior to signing this Agreement, they have read it, understood its terms and conditions voluntarily signed it.

SECTION 18: ACKNOWLEDGEMENT OF AUTHORITY:

Any individual signing this Agreement on behalf of any Party warrants and represents that he or she has all necessary and appropriate authority and approvals to bind and execute this Agreement on behalf of all entities and in all capacities for which they sign.

IN WITNESS, WHEREOF, the undersigned and authorized representatives of Client and HSP each duly execute this Agreement on the respective dates listed below, evidencing each of their binding agreement to this Agreement and its terms.

High Sierra Pools, Inc.

Client:

By: RKaczor 12/01/2021
Signature of Authorized Agent Date

By: _____
Signature of Authorized Agent Date

SWIMMING POOL MANAGEMENT AGREEMENT

WHEREAS, High Sierra Pools Inc. (HSP) offers pool management services for the operation of commercial swimming pools and is an independent contractor; WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements between the parties where those agreements or contracts conflict with the terms of this Agreement; WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating constraints; NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 1. GENERAL SPECIFICATIONS:

OWNER / AGENT	PROPERTY NAME	SWIM FACILITY NAME
Parkfairfax UOA 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Condominium 3360 Gunston Road Alexandria, VA, 22302	Parkfairfax Coryell Lane Pool C 3314 Coryell Lane Alexandria, VA, 22302
POOL OPERATION HOURS		POOL PERSONNEL
Main Season: May 28, 2022 - Sep 5, 2022		Lifeguard 115
Mon 1:00PM-8:00PM	Fri 12:00PM-8:00PM	
Tue POOL CLOSED	Sat 12:00PM-8:00PM	
Wed 1:00PM-8:00PM	Sun 12:00PM-7:00PM	
Thu 12:00PM-7:00PM	Hol 12:00PM-8:00PM	
		Weekly Staff Hours: 115

ADDITIONAL INFORMATION

Included at NO Additional Cost: Disinfectant and PH Balancer, Liability Insurance, Area Supervisor, Spring Opening, Test Kits and Summer Reagents, Winterization

Lifeguards will have valid CPR/AED, LFG/First Aid and Pool Operator Certificates. An area supervisor will perform minimum 2 weekly inspections. Lifeguards will arrive 1 hour prior to opening for cleaning of the pool and bathrooms. Pool Opens on May 28th 2022.

PAYMENT SCHEDULE

Due on Jan 1, 2022	\$3,500.00	Due on Jun 1, 2022	\$3,500.00	Due on Nov 1, 2022	\$3,500.00
Due on Feb 1, 2022	\$3,500.00	Due on Jul 1, 2022	\$3,500.00	Due on Dec 1, 2022	\$3,500.00
Due on Mar 1, 2022	\$3,500.00	Due on Aug 1, 2022	\$3,500.00		
Due on Apr 1, 2022	\$3,500.00	Due on Sep 1, 2022	\$3,500.00		
Due on May 1, 2022	\$3,500.00	Due on Oct 1, 2022	\$3,500.00		
Contract Price \$42,000.00					

EXTRA SERVICES*

* Initial each to approve; each billed separately, each priced per year

OPTIONAL YEARS*

___ 2023 \$44,400.00

* Initial to extend Swimming Pool Management Agreement at listed price

WHEREAS, High Sierra Pools, Inc. ("HSP") offers pool management services for the operation of commercial swimming pools and is an independent contractor;

WHEREAS, Client wishes to hire HSP to perform certain specific pool management services for its swimming pool or swimming pools; WHEREAS, this Agreement supersedes any other prior agreements or contracts between the parties where those agreements or contracts conflict with the terms of this Agreement and shall govern the relationship between HSP and Client;

WHEREAS, HSP desires that there be a mutual understanding of the scope and extent of its duties and that the overall relationship between the parties be clearly defined because of the potentially hazardous nature of a swimming pool and because of certain operating risks and constraints;

NOW THEREFORE, for good and valuable consideration and subject to the foregoing Recitals, the receipt and sufficiency of which are hereby acknowledged, HSP and Client agree as follows:

SECTION 2. SCOPE OF AGREEMENT:

Subject to the terms set forth herein in this Agreement, the Parties contemplate that HSP will provide certain pool management services which include the opening, operation of and management of Client's swimming pool or pools. HSP and Client will mutually agree upon and select an opening date for the swimming pool or pools so long as the opening date is not delayed or prevented by unforeseen or unknown events; by mechanical failures of equipment necessary to the operation of the swimming pool or pools, by repairs or replacement of equipment necessary to the operation of the swimming pool, by interruption of utilities necessary to the operation of the swimming pool, by failure to obtain annual certificates or other permits, by inadequate seasonal staffing availability or by any reason beyond the exclusive control of HSP.

SECTION 3. RESPONSIBILITIES OF CLIENT:

Client shall perform the following items in order for HSP to provide the responsibilities listed in Section 4 below:

1. Client shall ensure that the pool and that the pool equipment room is at all times available to HSP for it to perform its services while this Agreement is in effect and will provide HSP with full access to the pool on or before but no later than by April 1st of the first year of this Agreement in order for the pool to be drained and cleaned for the contemplated and mutually agreed upon date for the opening of the pool.
2. Client shall develop and provide a copy of the pool rules/regulations that it desires be applied to the pool operation and to the use of the pool. Client shall provide a mechanism to control or limit the use of the pool as required by law. Client will distribute those pool rules among its members and residents before the start of the season. Client shall provide and deliver to HSP the pool pass system to be utilized for Client's pool members, invitees, patrons, and guests. Client shall be solely responsible for the issuance and distribution of pool passes to be used for entry and access to the pool for its members, invitees, patrons, and guests.
3. Client is solely responsible providing all the security for the pool. At a minimum, Client shall provide working locks on all doors, gates and windows and shall maintain those locks. Client is solely responsible for providing and maintaining high quality and good condition fencing, walls and other appropriate barrier to ensure a secure enclosure around the pool during the time that this Agreement is in effect. Client shall provide a security system or alarm system if necessary to secure the pool and pool area. Upon reasonable request by HSP, Client will provide security guards to protect HSP's personnel and to protect Client's members, invitees, patrons, and guests.
4. Client will notify HSP of any defects, deficiencies, and/or maintenance issues as to the pool and pool premises, including but not limited to any issues with the fencing, gates, doors, locks, windows, pool equipment, pump, chlorinator, vacuum, lifeguard stands, and/or other fixtures.
5. Client shall provide a minimum of two (2) sets of keys or key cards for the pool by April 1st of this Agreement so that HSP and its personnel shall have access to any doors, gates, bathhouses, pool equipment room, lifeguard room/office, storage and/or any other areas that HSP needs for pre-opening services and for operation of the pool. If HSP is required to copy keys or key cards, Client agrees to pay for the costs of the duplicates so that HSP always has a minimum of three sets of keys or key cards.
6. Client will provide three large industrial sized trash cans with lids and one large industrial/commercial sized recycling bin with lid and trash bags for use by HSP's personnel and for pool members, invitees, patrons, and guests. Client is responsible for providing and paying for any trash removal and sanitation services and for recycling services for the pool.
7. Client will provide copies of health department inspections and/or violations from prior seasons for operation of the pool and Client shall provide all the necessary documentation regarding the pool license.
8. Client will pay for the costs to apply for and to obtain any certificates or permits required by regulatory agencies to operate the pool and pool facility unless specified otherwise in Section 1 of this contract. Administrative fees will apply to permit processing applications.
9. Client will provide an operational landline telephone connected and functional by May 1st for 911 calls and other necessary, business related local calls. The pool telephone must be blocked for long distance and international and collect calls. Client is responsible for any long distance, international and collect calls made from the pool telephone if Client fails to block the telephone use for any calls except for local and emergency telephone usage. In case landline is not available Client is required to provide 911 Call Box that is directly connected with emergency services.
10. Client is responsible for maintenance and repair of the pool premises and building premises and the toilet and shower partitions, drywall, plumbing and electrical systems are delivered to HSP and are always maintained in a safe and good working condition during this Agreement. Client shall promptly complete any and all necessary maintenance and repairs to the pool premises and pool equipment within the pool premises including but not limited to repair and maintenance of walls, drywall, plumbing, electric systems, windows, plumbing, decking, coping, tile, fencing, locking mechanisms, locks, security systems, area lights, and other items that HSP requires for a safe and successful operation of the pool. Client shall also be responsible for the maintenance and repair of the pool premises, building premises, and any premises adjacent to the pool premises to ensure that there are no defects, deficiencies or other unsafe conditions.

11. HSP is not responsible for water damages caused by lack of waterproofed floors and walls in clubhouses, pump rooms and other rooms used by HSP personnel.
12. Client shall provide HSP with any equipment requested by HSP to maintain and to clean the pool premises, including but not limited to mops, hoses, brooms, leaf blowers, toilet plungers and hose nozzles that HSP shall need to clean and maintain the pool premises in the good condition provided by Client before start of the season unless Client and HSP have agreed otherwise and Client pays HSP for providing those items.
13. Client shall provide HSP at Client's sole expense with any and all first aid and lifesaving equipment required by the local health department, Red Cross, or other regulatory agency, including but not limited to backboards with three straps and buckles and head immobilizer with two straps, rescue tubes (one per lifeguard), shepherd's (body) hooks attached to at least 12 feet non-telescopic poles and ring buoys, and AED if required by the county health code.
14. Client shall perform the initial cleaning of the bathhouses and bathrooms. Client shall also provide any additional cleaning and disinfection required by law or recommended to prevent disease exposure. Client shall provide soap, paper towels, tissues, toilet paper, cleaning supplies and other consumable supplies as needed throughout the pool season unless otherwise Client and HSP have agreed otherwise and Client pays HSP for providing those items.
15. Client shall provide, by April 1st, operational hot water heaters, mixing valves and scalding devices as required by local authorities in order to pass the pre-opening inspection for the pool to operate.
16. Client shall supply water and be responsible for water bills. If HSP determines that Client's swimming pool or pools need to be drained and refilled, Client will be responsible for any and all water costs.
17. Client shall provide any OSHA approved Personal Protective Equipment ("PPE") and devices, including, but not limited to an eye wash station, chemical apron, goggles gloves and dust mask. Client shall also provide any special equipment and supplies because of COVID-19 such as hand washing or hand sanitizer stations or other equipment recommended by the Centers for Disease Control or the American Red Cross.
18. Client authorizes HSP to post a sign at the pool premises, that identifies HSP as the pool management company for the pool.
19. Client shall post warning signs that indicate risk of use pool and lack of lifeguard on duty for the wading pool on the wading pool gates and/or fences.
20. Client shall provide any fixtures for the pool or pools and Client shall solely be responsible for the repair or replacement of any fixtures for the pool as determined by HSP, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items.
21. Client shall provide any furniture and/or equipment such as tables, chairs, loungers, and other items that Client wants to be available at the swimming pool or pools. Client is responsible for initial deep cleaning of pool furniture or request HSP to provide such services at an additional cost. Client shall provide each lifeguard station or stand with an umbrella.
22. Client shall give written notice thirty (30) days in advance of any change in the identity of the management company or the agent of Client with whom HSP communicates as to the services provided under this Agreement. Client is responsible for paying all due invoices even after property changes ownership/management.
23. Client shall maintain proper ventilation of the pool, pump room, and pool facilities.
24. If Client allows alcoholic beverages to be brought to the pool premises or to be consumed on the pool premises for special events and activities or if Client's members, invitees, patrons and guests bring or consume alcohol on the pool premises, Client at all times is solely responsible and liable for any damages or consequential loss to any person or entity.

SECTION 4. TERMS OF SERVICE TO BE PROVIDED BY HSP:

HSP will provide the following pool management services:

(a) Pre-Season Services:

1. Prior to the opening of the pool for Client, HSP will perform an inspection of the pool equipment, bathhouse plumbing, filtration system, fixtures and freshwater plumbing system to determine if pool system is fully operational.
2. HSP will remove any pool cover(s) and will store on the premises of Client. For additional expense and at Client's request and approval of additional expense, HSP will store pool cover or pool covers off site for Client.
3. HSP will drain and clean the swimming pool at its discretion if HSP determines that cleaning is necessary.
4. HSP shall fill pool and start recirculation system as part of its pre-season services
5. HSP will install any of Client's fixtures for the pool, including but not limited to diving boards, ladders, handrails, lifeguard stands, and other items if applicable, so long as all such fixtures are in good condition and are not in need of any repair.
6. HSP will move client's furniture and equipment that Client wants to be available at the swimming pool and arrange it as Client specifies. HSP is not responsible for the condition of any furniture and/or equipment.
7. HSP shall use its reasonable best efforts to prepare Client's pool in a swim-ready condition at least five (5) business days prior to the opening date.
8. If not otherwise specified in Section 1, once Client pays fees and costs for applications and for permits, provides all necessary documentation, HSP will apply for all required permits and/or authorizations and lab testing required by local Health Department and regulatory agencies (unless otherwise specified in section 1) to operate the pool or pools and to have pool be in an operational condition and attend any required inspections. HSP will post all permits and certificates in Client's designated area. If certificates and/or permits for operating cannot be acquired by HSP due to any circumstance beyond the exclusive control of HSP, it shall be the responsibility of Client to secure certificates and permits for the opening of the swimming pool.
9. HSP will provide any SDS required for chemicals to Client.

(b) Operational Services:

1. When the pool is open for the use of Client's members, invitees, patrons and guests, HSP will supply its lifeguard personnel for the opening, operation and closing of the main pool or pools.
2. HSP will only provide limited services to a wading pool on the pool premises, which services include maintenance, repairs, cleaning and water testing and treatment under the same terms as the main pool but which do not include any lifeguarding or monitoring of the wading pool use by HSP's personnel unless Client pays a separate fee to HSP for lifeguarding services for any wading pool. If Client does not pay for lifeguarding services for any wading pools, Client assumes all liability for any claims or damage that occurs in the wading pool or in the wading pool area. Client is responsible for the use of the wading pool and agrees to hold harmless, indemnify and defend HSP for any use of wading pool and any claims of injuries or damages from use or misuse of the wading pool.
3. If Client does not have a separate cleaning service, HSP may provide limited janitorial services for the bathhouse. However, HSP's personnel will only perform limited janitorial services for the bathhouse when HSP determines that such janitorial services do not affect the lifeguarding duties for the persons using the swimming pool and such bathhouses and locker rooms are not shared with gyms and leasing offices. Such janitorial services are not meant to be a substitute for sanitization or disease prevention.
4. HSP will straighten Client's pool furniture and the pool area daily or as is needed.
5. HSP will brush, vacuum and skim pool(s) daily or as required at the beginning of their shifts. HSP will also provide extra, additional cleaning if Client requests same in advance and agrees to pay an additional fee.
6. HSP will clean skimmer baskets, backwash filter system and/or hand clean cartridge filters daily or as needed.
7. HSP will check water purity, acidity, and disinfectant levels to comply with local Health Department standards and, in compliance with the local and state Health Department Codes, HSP will test disinfectant and pH levels hourly and adjust if needed. HSP may test for total alkalinity, calcium hardness and cyanuric acid will be conducted as required by local Health Department codes and regulations for swimming pools.
8. HSP will conduct two (2) written inspections per week or with such frequency as HSP and Client agree. HSP will meet with Client periodically to discuss pool operation at Client's reasonable request.
9. HSP shall have the exclusive right to decide when to close the pool or pools and the pool premises in the event of any event that HSP deems in its sole discretion to create an unsafe environment including but not limited to any safety concern, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing concern, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which excuses or delays HSP's performance. HSP shall close the pool or pools and the pool premises in the event of lightening or thunder and will reopen the pool premises forty-five (45) minutes after last occurrence of thunder or lightening or as the regulations of the local Health Department require. HSP shall not be in any way liable to Client or to Client's members, invitees, patrons and guests for any damages, delays in services, or any inconveniences because of the closing of the pool or pools or pool premises. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility for any of the reasons outlined in this paragraph.
10. HSP shall also close the pool and pool premises in accordance with local and applicable state regulations if control of disease is required or if vomit, human feces, animal feces, deceased animals, or other foreign or chemical agent is introduced into the pool water to perform additional maintenance and super-chlorination and cleaning if HSP determines such work is necessary for the health and safety of Client's members, invites, patrons and guests and for the use of the pool or pools. If additional chemicals are required, HSP will charge Client for the additional chemicals used and Client is responsible to pay the charges for the additional clients. Client shall also not be entitled to any reduction in the compensation due to HSP under this Agreement because HSP decides to close the pool or is unable to open the pool or pool facility.
11. If the pool is closed for reasons outside of HSP control for more than ten (10) consecutive days (including but not limited to inclement weather), Owner/Agent/Client is eligible for refund of 50% of daily operating costs for any consecutive closed days after 10th day. Daily operating cost shall be defined as 1% of the total contract price specified in the Section 1 (specification). HSP is not required to provide lifeguards while pool is closed.
12. If a holiday falls on a day that the pool is scheduled to be closed, HSP will open the pool for that holiday and close the pool on the following day instead, at the discretion of HSP.
13. HSP will schedule a ten (10) minute break each hour that the pool premises are open in order to allow its personnel to perform water testing, equipment checks, clean-up duties, and bathhouse and pool house inspections and to allow its lifeguard to have a break from lifeguarding duties and surveillance, at which time HSP shall order all persons to be out of the pool or pools and to be away from the water.
14. HSP's personnel are not ever responsible for any persons who use the wading pools and wading pool premises, including any minors with or without supervision by a parent or a legal guardian. Client will notify its members, invitees, patrons and guests that all minors must be supervised at the pool premises by a parent or a legal guardian and that HSP assumes no responsibilities for the use of the wading pool.
15. After closing the pool for the day during this Agreement, HSP will lock and secure the pool premises. However, Client remains solely responsible for insuring that adequate security measures exist and are functional. HSP shall have no responsibility or liability whatsoever for the pool premises after its personnel close the pool and pool premises or its personnel have left or exited the pool premises and/or pool facility, including but not limited to unauthorized or illegal usage of the pool by trespassers or if Client allows its members, invitees, patrons and guests to use the pool when HSP personnel are not present performing lifeguarding duties.

SECTION 5. POOL CHEMICALS, SUPPLIES AND MATERIALS:

1. HSP will obtain chemicals, to balance disinfectant and pH levels required by the local health department or regulatory agencies for the operation of the pool and shall pay for such chemicals as part of its services under this Agreement. Owner agrees to be responsible for any additional chemicals needed and supplied such as bromine, granular chlorine (calcium hypochlorite), test reagents, test kits, sodium bicarbonate, calcium chloride, cyanuric acid, algaeicide etc
2. Client is responsible for the additional costs for treatment of unusual or abnormal water and pool conditions due to the presence of metals, high levels of phosphates, leaking swimming pool, inadequate filtration, any equipment or mechanical failures or other irregular conditions. HSP will notify Client of the additional costs, and Client shall promptly pay for the additional costs.

SECTION 6. HSP PERSONNEL:

1. All personnel employed by HSP to perform any services or work under this Agreement shall be employees of HSP for all purposes and not the employees of Client. HSP shall be solely responsible for all compensation paid to its employees and shall pay all payroll obligations, including Social Security and Medicare payments, FUTA, FICA, and taxes related to the work of its employees if applicable. HSP shall provide any legal benefits and shall provide worker's compensation benefits to its personnel. HSP shall ensure that its personnel hold required licenses and certifications. HSP will require its personnel to wear HSP's uniforms. HSP's personnel will have appropriate lifeguarding certification and pool operator's licenses and display such documentation as required by local and/or state law and regulations.
2. The number of personnel is based upon the ratio required for pool staffing and is based upon HSP's industry experience of the minimum number of personnel required for a potentially safe operation of the pool and pool premises. Consequently, if the number of pool patrons consistently varies from Client's estimate, the number of HSP's personnel will be adjusted as mutually determined by HSP and Client and the compensation due to HSP under this Agreement will be adjusted accordingly by Addendum to this Agreement executed by HSP and Client.
3. HSP has the exclusive right and sole discretion to increase the number of its lifeguarding personnel in order to maintain an acceptable ratio of lifeguards to pool users or to limit the number of pool users permitted at the pool premises as HSP determines in its sole discretion. In the unlikely event that Client will not agree to authorize and pay for the additional lifeguarding staff that HSP has determined is adequate, then and in that event, HSP may immediately terminate this Agreement without any notice to Client or may close the pool premises. Additional costs for lifeguard or for additional lifeguarding hours will be billed separately to Client at the price indicated within this Agreement or the Addendum if HSP increases its personnel because of its discretionary judgment that an increase is necessary to operate the pool.
4. HSP lifeguarding personnel shall hold nationally recognized lifeguarding certificates or other certification where required by the codes and local Health Department or regulatory agencies. HSP shall have the sole discretion as to the hours and days worked by its personnel for Client.
5. Client may request that HSP supply additional personnel for an additional fee of \$30 per hour for each partial hour or as otherwise specified by HSP per worker which fees are in addition to HSP's regular compensation set forth in this Agreement.
6. If Client is dissatisfied with any of HSP's personnel, Client shall provide HSP with a written statement of the reasons for its dissatisfaction and with the name of the worker. HSP will replace an employee if it determines that the Client's dissatisfaction is valid and reasonable within seventy-two (72) hours or no later than (3) business days when possible for HSP to do so.
7. If Client requires background checks or other specialized employment screening, Client must outline its requirement within thirty (30) days of full execution of this Agreement and provide the written policy or regulation that permits any specialized employment screening and shall pay any additional costs of HSP incurred by it for such screening and increased administrative costs for HSP, which will be billed as a separate fee to Client. HSP will provide documentation of the screening conducted when available to Client.
8. Client shall provide free parking for HSP's personnel.

SECTION 7. SPECIAL EVENTS AND SWIM TEAM EVENTS:

1. If Client allows pool or pools or pool premises to be used for special events and activities including but not limited to swim team practice, swim meets, aerobics classes, swim classes, pool parties, and other special use of the pool premises, either inside or outside the contracted hours for HSP personnel; HSP shall not be required to provide services for those special events and activities unless Client shall specifically hire HSP to provide personnel to perform services for those special events and activities. HSP has the right to refuse to provide services for any special events or activities. HSP shall provide advanced notice of its decision to refuse to provide services and shall not be liable or responsible for any damages or for any inconvenience to any person or entity or to Client for its decision to refuse to provide services for any special events or activities.
2. Upon Client's written request at least 7 days before any special events, HSP may provide personnel for special events and activities at a rate of twenty-five dollars (\$25.00) per hour per additional lifeguarding personnel and at a rate of thirty dollars (\$30.00) per pool manager or pool operator. Client must provide an estimated schedule and an estimate of the number of persons expected to participate and attend the special events and activities. Client must authorize and pay for a ratio of one lifeguard per twenty-five participants and attendees of any special events and activities.
3. HSP has the right and authority to eject any persons who do not comply with the pool rules or regulations or who engage in potentially unsafe conduct. If those persons who are asked to leave refuse to leave the pool premises, HSP may close the pool premises for the special events and activities upon notification to Client of its intent to close the pool premises. Client is at all times ultimately responsible for the conduct of its pool members, invitees, patrons, and guests and for the security of the pool premises and safety of HSP's personnel.

SECTION 8. SEASONAL CLOSING AND WINTERIZATION SERVICES:

HSP will perform the following services to winterize the pool facility after closing and on or before November 15th unless Client and HSP agree on a date certain:

1. HSP will backwash filtration system and remove drain plugs from filters that require draining and that are capable of draining.
2. HSP will drain recirculating and vacuum lines that require draining and are so constructed that they can be drained.
3. HSP will drain pumps and water lines that require draining.
4. HSP will unplug disinfectant feeders and chlorinator(s).
5. HSP will adjust water level.
6. If Client requests, HSP will install winterizing chemicals to control algae, at Client's cost for chemicals.
7. HSP will move and store diving boards, ladders, handrails, lifeguard chairs, pool fixtures, test equipment, first aid equipment, furniture, hoses, and other pool property within pool premises as requested by Client.
8. HSP will blow out skimmer line with compressor and add antifreeze.
9. HSP will install pool cover provided by Client so long as deck anchors and cover springs belonging to Client are functional and available. Client may have to replace deck anchors, cover springs and cover at Client's costs.
10. HSP will shut off main water supply, unless underground and within pool premises. Otherwise, HSP will notify Client of its responsibility to Water Authority if main water supply is located outside of pool enclosure or is underground.
11. HSP will provide OWNER with winterization report, lock pool premises and return all sets of keys and key cards to Client. When Client receives the winterization report as acknowledged by the Client's or HSP's signature, Client accepts the winterization as satisfactory and complete.
12. Client understands and releases HSP from any liability as to the winterization of the pool premises by HSP and acknowledges that HSP is not be responsible for freeze damage, wear, tear and other problem and that winterization is not a guarantee that damage will not occur, due to the complicated nature of plumbing systems and water condensing within drained pipes and due to weather extremes except in the case of HSP's gross negligence.

SECTION 9. COMPENSATION TO HSP:

1. This Agreement presumes that certain costs are fixed as of the date that HSP provides it services. However, in the event that the minimum wage is increased by any federal, state or local government agency, then Client agrees to adjust and increase the total compensation for the increase in the minimum hourly wages payable to HSP's personnel.
2. At Client's request, HSP may continue to perform services and to operate the pool or pools beyond the closing date set forth in Section 1. However, the date and times must be mutually agreeable to HSP and Owner and be set forth in a separate written addendum.
3. Client agrees to reimburse HSP membership fees paid to Compliance Depot, RMIS and other insurance verification vendors.
4. Any compensation owed by Client to HSP shall be paid in full within thirty (30) days of the invoice date or on the mandated date of payment above. Client shall pay HSP late fees of five percent (5 %) of the total owed for any payments that are not paid in full by the due date per month that Client owes HSP in addition to any other rights and remedies that HSP may have under this Agreement. HSP shall also be entitled to reasonable attorney's fees and costs for collection of any monies owed by Client to HSP.
5. HSP may suspend service temporarily or terminate this agreement with 5 days written notice in the event of non-compliance by Client or in the event payment is not received as outlined on the specification page.

SECTION 10. EQUIPMENT REPAIRS:

1. If Client hires HSP to perform repairs to the pool equipment and to the pool premises or to replace pool equipment to continue the operation of the pool or to maintain health and safety standards required for the pool to operate, those services will be extra and in addition to the services provided in Section 7. HSP will perform all such work in accordance with federal, state, county, local, and governmental codes and regulations.
2. HSP will notify Client of any repairs or replacement of equipment that HSP determines is needed to continue the operation of the pool or to maintain the health and safety standards required for the pool to operate. HSP will submit a written proposal of the estimated costs for equipment, applicable taxes, parts and labor, which Client must approve before HSP is obligated to begin work. Once HSP begins the work approved by Client, Client is liable to pay HSP for its extra or additional services when completed.
3. It is understood and agreed to by Client that it shall pay all invoices for repair or replacement of equipment from thirty (30) days of the date of the invoice sent to Client by HSP unless HSP requests that Client pay in advance for replacement parts and equipment.
4. Any major service projects, for example but not limited to: pool resurfacing; deck, tile and coping replacement; pump room re-piping, pump and filter replacement – conducted by other than HSP vendors – those repairs need to be completed at least 3 weeks before scheduled opening day. If the deadline cannot be met, HSP cannot guarantee on-time opening.

SECTION 11. INSURANCE:

1. HSP shall maintain public liability insurance to cover accidents and injuries of pool users, including loss of life, directly due to the negligence of HSP and its personnel for accidents that occur within the pool premises during the contracted pool hours when HSP is providing services.
2. Client and HSP agree that Client shall also maintain public liability insurance to provide coverage for claims or injuries that may be sustained by any person while on the Client's premises, including the pool premises. Client shall maintain adequate public liability coverage for any special events or activities held at the pool premises (as detailed in Section 5) and to protect it from any liabilities occurring upon the swimming pool facility premises, regardless of whether HSP provides any lifeguarding services.

3. Client's public liability insurance shall be primary to the insurance of HSP unless HSP and Client agree in writing that HSP's insurance will be primary for any claims arising out of the alleged negligence of HSP and its employees. In the event that Client wishes to have it named as an additional insured or wishes another person or entity to be named as an additional insured on HSP's policy, Client will pay for the costs of such additional or extra coverage from HSP's insurer.

SECTION 12. RELEASE, INDEMNIFICATION AND LIMITATION OF LIABILITY:

1. Client expressly recognizes that the use of a swimming pool is a potentially dangerous activity and involves risks of injury and death. Consequently, Client agrees that HSP shall have no liability whatsoever for any claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility by Client or by any person arising out of this Agreement and arising out of the services provided by HSP to Client. Client releases HSP and its personnel from any and all liabilities, claims, injuries, bodily injuries, deaths, losses, property damages, compensatory damages or any legal or financial responsibility arising out of this Agreement or for any reason other than the gross negligence or willful misconduct of HSP and its personnel, including but not limited to any claims of negligent performance of lifeguarding, of inadequate security, or any claims alleged to be due to mechanical failure of equipment, faulty or defective maintenance or construction of the swimming pool facility, or hydrostatic conditions.
2. Client releases HSP from any service interruption or any decisions by HSP to delay opening of the swimming pool facility or to close the swimming pool and the pool premises because of HSP's decision or HSP's concern about safety, utility service interruption, weather event or concern, security concern, health concern, mechanical failure, staffing adequacy, emergency situation, order by the local Health Department or other regulatory agency, permitting or licensing failure, Force Majeure, governmental action, unforeseen event, or any other causes outside of HSP's exclusive control, including any material adverse issue which adversely impacts, excuses or delays HSP's performance.
3. Client shall indemnify and hold harmless HSP and its personnel from any and all liabilities, claims, damages, losses, and expenses, including reasonable attorney's fees and costs, arising from and or related to any act, failure to act, or negligence on the part of the Client or arising out of the use of the pool premises for special events and activities or arising from any premises claim and from any claim about mechanical failure of equipment, faulty or defective maintenance or construction of the pool premises, or hydrostatic pressure.
4. In no event, shall the indemnification and limitation of liability provision in this Section release either Client or HSP's insurers from those insurers' obligations to defend and to indemnify or any of their respective duties under the terms of any policy or policies of insurance.

SECTION 13. TERMINATION OF AGREEMENT:

1. Time of the Essence for Execution of this Agreement: Client and HSP agree that HSP has the option to terminate and declare this Agreement void if it is not executed by Client and returned to HSP by February 1st or within 2 weeks if submitted after February 1st.
2. Notice Termination: Either Client or HSP may terminate this Agreement without cause and at any time after execution by providing the other party with thirty (30) days written notice to other party of the intent to terminate the agreement. This Agreement will then terminate on the thirty-first date from the date of the notice. HSP is entitled to be paid for its services provided to Client, and termination of this Agreement will not affect Client's obligation of payment.
3. In the event that Client fails to make any of the payments required under this Agreement, fails to comply with any of the terms of this Agreement, or breaches any of the terms of this Agreement, HSP shall be entitled to terminate this Agreement for cause immediately. Upon written notice of termination sent by HSP to Client, HSP will have the right to cease all services to Client and will have the right to avail itself of any legal and equitable rights and remedies. Client agrees and shall pay HSP's reasonable attorney's fees and costs incurred because of Client's failure to pay timely HSP for its services.
4. In the event that Client believes that HSP has breached the terms of this Agreement, then Client shall give written notice of the alleged breach or non-compliance of the term of this Agreement and allow HSP seventy-two (72) hours from the date that HSP receives and acknowledges notification from Client to correct or cure the alleged breach or non-compliance. If Client does not agree that HSP has corrected or cured the alleged breach after the seventy-two hours period of time, then this Agreement will terminate on the next business date that HSP is required to perform services for Client.
5. Client agrees that it is not a breach of this Agreement by HSP if HSP cannot provide its services under this Agreement by reason of unanticipated issues, circumstances, or acts beyond HSP's control such as by example immigration and visa issues (denials), strike, labor dispute, failure of utilities, change in immigration policies, changes in or retroactive laws or regulations, war, weather event, act of God, force majeure or any other reason that unforeseeably delays or interferes with HSP's performance of service under this Agreement. Any delay in HSP being able to provide services shall give client no right to terminate this Agreement. HSP has a right to renegotiate contract price should any of the above take place that will affect HSP ability to hire sufficient number of lifeguards.
6. In the event that Client or HSP shall become bankrupt, insolvent, or shall make a voluntary assignment for the benefit of creditors, either Client or HSP may terminate this agreement immediately by providing the other with written notice of termination.
7. The termination of this Agreement does not in any way release Client from its duties and obligations, including the obligation to pay HSP any monies owed to HSP for its services, including but not limited to the remaining compensation still owed to it under Section 1. Additionally, the termination of this Agreement does not void Section 9 which continues in full force and effect forever. Furthermore, the termination of this Agreement does not affect the obligations or duties of Client's insurer or HSP's insurer.

SECTION 14. NON-COMPETITION PROTECTION:

Following the term of this Agreement, Client agrees not to hire or to contract with HSP's current or former employees to provide pool management services and agrees not to hire or to contract with any company in which HSP's current or former employees work in a management position for a period of two (2) years from the date that this Agreement terminates.

SECTION 15. GOVERNING LAW, INTERPRETATION, AND NO WAIVER:

This Agreement shall in all respects be interpreted, enforced and governed under the laws of the Commonwealth of Virginia, without regard to its conflicts of law provisions. The provisions of this Agreement shall be deemed severable, and the validity or non-enforceability of any provision shall not affect the validity or enforceability of the other provisions of this Agreement. In the event of a dispute as to the meaning of any provision, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted either for or against either of the Parties hereto on the ground that such party drafted or caused to be drafted this Agreement or any part hereto. No provision of this Agreement may be waived except by a written agreement. A waiver of any term or provision shall not be construed as a waiver of any term or provision. The failure of any party to insist upon the strict performance of any understanding or term shall not be construed as a waiver or relinquishment of the right to insist upon the strict performance that understanding or term.

SECTION 16. ENTIRE AGREEMENT:

The Parties acknowledge that they have not relied on any representation or statement, written or oral, not set forth in this Agreement, and the provisions contained in this Agreement represent the entire agreement between the Parties and modify and supersede any and all prior agreements, correspondence, or communications concerning the subject matter of this Agreement.

SECTION 17. REVIEW AND UNDERSTANDING OF THIS AGREEMENT:

The Parties represent that, prior to signing this Agreement, they have read it, understood its terms and conditions voluntarily signed it.

SECTION 18: ACKNOWLEDGEMENT OF AUTHORITY:

Any individual signing this Agreement on behalf of any Party warrants and represents that he or she has all necessary and appropriate authority and approvals to bind and execute this Agreement on behalf of all entities and in all capacities for which they sign.

IN WITNESS, WHEREOF, the undersigned and authorized representatives of Client and HSP each duly execute this Agreement on the respective dates listed below, evidencing each of their binding agreement to this Agreement and its terms.

High Sierra Pools, Inc.

Client:

By: RKaczor 12/01/2021
Signature of Authorized Agent Date

By: _____
Signature of Authorized Agent Date