



FACILITY USE AGREEMENT

McCullough Neighborhood Association, Inc.

This Agreement is entered into by and between:

Organization Name: _____
(hereinafter referred to as the “Organization”)

and

McCullough Homeowners’ Association, Inc.
(hereinafter referred to as the “Association”)

The Organization and the Association agree to the terms outlined below regarding the use of the facilities located at:

- **North Carolina:** 12030 Miller Glen Ct, Pineville, NC 28134
- **South Carolina:** Dorsey Drive (pool facility)
- Any designated **Common Open Space (COS)**

ORGANIZATION QUALIFICATIONS

Lesson Type Provided: _____

The Organization affirms that it is in the business of providing the above services and meets all necessary licensing, staffing, and regulatory requirements under NC and SC law.

INDEPENDENT CONTRACTOR STATUS

The Organization is acting as an independent contractor and is not an employee of the Association. All personnel, including but not limited to, managers, operators, agents, volunteers, and employees of the Organization performing actions on behalf of the

Organization under the terms of this Agreement, shall be considered employees of the Organization and shall be under the Organization's control, and shall in no way be considered employees of the Association. The Organization and/or its personnel shall not be entitled to any of the benefits provided to the Association's employees. The Organization disclaims and waives any claim to status as an employee of the Association.

INSURANCE REQUIREMENTS

The Organization shall obtain and maintain, at its own expense, insurance coverage written by companies licensed and authorized to conduct business in the States of North Carolina and South Carolina, acceptable to the Association, in the following minimum amounts:

- **Workers' Compensation and Employers' Liability Insurance** (if required by law): Statutory amounts and coverage as required by law. If Workers' Compensation is required, it shall include employers' liability with a policy limit of at least \$500,000 (or such other amount to comply with the umbrella/excess liability policy), including a provision for extending the policy in accordance with the law of other jurisdictions.
- **Commercial General Liability Insurance** (if required)
 - **Bodily Injury, Personal Injury, and Property Damage:** at least \$1,000,000 each occurrence and \$3,000,000 annual aggregate.
 - **Employers' Liability Insurance:** at least \$1,000,000 each occurrence and \$2,000,000 annual aggregate.

The Organization's insurance policy shall name the Association as an additional insured. The Organization's insurance policy shall be the primary policy with respect to any liability claims relating to or arising out of the services provided under this Agreement, and any insurance policy of the Association shall be secondary. The Organization shall provide the Association with a certificate of insurance confirming the insurance required herein within three (3) business days of the execution of this Agreement.

Failure to provide such a certificate shall be considered a material breach of this Agreement.

Waiver Option: The Association may, at its discretion, waive this requirement in compliance with state laws.

CONDITIONS OF USE

(Check to confirm agreement)

- ☐ **Participation:** Participation in the Organization's activity is solely for McCullough Community residents and their guests.
- ☐ **Set-up and Break-down:** The Organization is responsible for set- up and break-down of the space, which must be coordinated with the HOA.
- ☐ **Cleaning:** The Organization is responsible for ensuring the reserved space is left in a clean and orderly status after each use. All trash, personal items, and supplies must be removed.
- ☐ **Furniture and Equipment:** Equipment and furniture may not be removed from the facilities unless pre-approved by the HOA and must be returned to its original place and condition.
- ☐ **Substances:** No illegal substances are permitted in or around the facilities.
- ☐ **Conduct:** The Organization assumes full responsibility for the conduct of its attendees.

FACILITY AVAILABILITY & RULES

Tennis Court Lessons:

- ☐ Use only Tennis Court #1 (closest to the Clubhouse)
- ☐ Max 2 hours/day, weekdays only before 5 PM
- ☐ Only 1 day reserved at a time

Swim Lessons (Available at both the North Carolina and South Carolina Pool):

- ☐ 1-on-1 lessons only between the Organization and McCullough resident
- ☐ Weekdays only between 10 AM – 8 PM or dusk
- ☐ No weekends or holidays (Memorial Day, July 4, Labor Day)
- ☐ 30-minute lesson limit

PERMITS & LICENSES

The Organization shall obtain, at its own cost, any necessary licenses or governmental permits required by the States of North Carolina and South Carolina prior to commencement of any work

under this Agreement. The Organization shall always remain in compliance with the provisions and conditions of any licenses, permits, and any applicable laws and ordinances of both states.

NON-DISCRIMINATION

The Organization agrees not to discriminate against any employee or applicant based on race, color, creed, sex, sexual orientation, gender identity, or national origin. The Organization further agrees to comply with all applicable federal, state (NC and SC), and local employment and immigration laws. This includes employment eligibility verification as required by both NC and SC laws.

☐ **I agree to comply with all federal, state, and local anti-discrimination and employment laws.**

INDEMNIFICATION

The Organization shall indemnify, defend, and hold harmless the Association, its Board of Directors, staff, agents, members, residents, guests, tenants, and Managing Agent from any and all claims, injuries, damages, causes of action, or liabilities arising from actions, omissions, negligence, or willful acts on the part of the Organization or its personnel under this Agreement. This includes all claims that may arise due to any criminal actions or violations of law by the Organization's personnel, in compliance with both North Carolina and South Carolina law.

☐ **I understand and accept that the Organization will indemnify and hold harmless the Association against all claims, liabilities, or damages arising from our use of the facilities.**

GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the laws of North Carolina and South Carolina. In the event of a dispute involving the terms of this Agreement, the parties agree to submit to the jurisdiction of the courts in the county in which the incident occurred, either Mecklenburg County, NC, or York County, SC, depending on the location of the facilities involved.

☐ **I understand that this Agreement is governed by NC and SC laws and that jurisdiction is either Mecklenburg County, NC or York County, SC.**

NOTICE INFORMATION

Notices under this Agreement shall be sent to:

Organization Name: _____

Organization Address: _____

Contact Name: _____

Phone Number: _____

Email: _____

McCullough Homeowners' Association, Inc.

PO Box 3340

Fort Mill, SC 29716

Attn: Community Association Manager

SIGNATURES

The undersigned, by their duly authorized representatives, have executed this Agreement on the day and year written below.

Authorized Representative of McCullough HOA

Name: _____

Signature: _____

Date: _____

Authorized Representative of Organization

Instructor's Name: _____

Signature: _____

Date: _____

Please return the signed form to support@kuester.com