

ATHLETE AGREEMENT

Between **Swimming New Zealand Inc. ("SNZ")**

And _____ [Swimmer's Name]
("The Swimmer")

1 Background

SNZ is the National Sports Organisation that governs swimming in New Zealand. SNZ is affiliated to the International Sports Federation FINA. SNZ organises National Championship events for New Zealand swimming and selects swimmers to represent New Zealand in international competition. SNZ also provides support to New Zealand swimmers to help them achieve to the best of their ability. In order for SNZ to provide this support and also for SNZ to be financially sustainable, SNZ has relationships with a number of partners who provide financial support to SNZ.

2 Applicability

This agreement sets out the terms under which SNZ shall undertake to provide support to the Swimmer (as set out in clause 4 below). To be eligible for such support the Swimmer must first sign and then comply with the terms of this written agreement.

3 Introduction

SNZ and the Swimmer recognise it is in their mutual interests that NZ's best swimmers perform to their full potential at the highest level of the sport and promote swimming. SNZ and the Swimmer agree to work together towards the achievement of SNZ's high performance vision of:

- Achieving excellence internationally and
- Being part of an environment which is performance relevant.

4 Term

This agreement will remain in force until terminated:

- (a) Without cause, by either SNZ or the Swimmer giving 28 days notice in writing to the other;
- (b) Immediately where either party is in breach of this agreement, and, where the breach is capable of remedy, the party in breach has failed to remedy it within a time (being reasonable but not greater than 5 working days) specified in a notice to that party requiring its remedy;
- (c) Immediately in the following circumstances:
 - i. The Swimmer commits an act of dishonesty;
 - ii. The Swimmer is charged with an offence which in SNZ's opinion is likely to affect their standing or reputation or the reputation of the sport of swimming;
 - iii. The Swimmer is in serious breach of the agreement which is incapable of remedy;
 - iv. The Swimmer commits an anti-doping rule violation.

In the event that a Swimmer receives an interim suspension pending the determination of whether the Swimmer has committed an Anti-Doping Rule Violation, this agreement shall be suspended until such time as it is established that the Swimmer has or has not committed an Anti-Doping Rule Violation.

5 SNZ's Undertakings

In consideration of the mutual promises provided for in this agreement, SNZ undertakes to provide the following services/opportunities during the term of this agreement:

- to provide such financial assistance to the Swimmer which in SNZ's sole discretion is appropriate having regard to;
 - the constraints of the SNZ budget
 - other swimmers to whom SNZ has agreed to provide financial assistance
 - the Swimmer's performance rankings, with swimmers graded higher in the performance rankings being eligible for greater financial assistance than those graded lower in the performance rankings

- to provide such reasonable assistance to the Swimmer to obtain a Prime Minister's Athlete Scholarship, NZAS carding support and Performance Enhancement Grants (PEGS) provided always that the Swimmer meets the eligibility criteria for such grants and schemes
- SNZ will reimburse at a mutually agreed rate, the Swimmer's reasonable expenses associated with travel, accommodation and meals incurred in the performance of any promotional activity on behalf of SNZ
- SNZ will ensure promotional activities requested of the Swimmer do not adversely affect swimming or work commitments.

6 Swimmer's Undertakings

The Swimmer confirms that he/she:

- will complete an availability form for any events for which he/she is seeking selection
- is a New Zealand citizen, and holds or has been granted, the right to permanent residence in New Zealand; and holds (for Commonwealth Games, Olympic Games and any other meets designated by SNZ and/or FINA), a New Zealand Passport. Where the Swimmer has dual citizenship, the Swimmer confirms New Zealand as his/her Sport Country in accordance with FINA rules
- is a current financial member of a SNZ club and shall remain so during the term of this Agreement

The Swimmer agrees during the term of this agreement to:

- abide by the terms of 'SNZ's Code of Conduct' as amended from time to time (see Schedule A below, which is current at the time of executing this agreement - the current version of which will be maintained on the SNZ website. It is the Swimmer's responsibility to ensure that he/she is aware of the requirements of the current version of the Code of Conduct at all times)
- abide by the 'SNZ's Doping Policy as amended from time to time (See Schedule B below, which is current at the time of executing this agreement - the current version of which will be maintained on the SNZ website, it is the Swimmer's responsibility to ensure that he/she is aware of the requirements of the current version of the Doping Policy at all times)
- abide by 'SNZ's On Tour Disciplinary Code' as amended from time to time (See Schedule C below, which is current at the time of executing this agreement- the current version of which will be maintained on the SNZ website, it is the Swimmer's responsibility to ensure that he/she is aware of the requirements of the current version of the On Tour Disciplinary Code at all times))
- comply with all SNZ tours and travel criteria as directed by SNZ and / or its designated management and comply with all reasonable instructions given by SNZ management whilst on tour.
- attend and/or compete in camps/squads/teams/tours for which he/she has been nominated and/or selected as outlined in the availability form
- wear such team clothing as directed by SNZ, while on tour or as a member of a SNZ team, and swimwear that complies with FINA's or SNZ's Rules & Regulations
- be entirely responsible for all personal effects, insurance coverage for such personal effects, and claims and to meet any personal excess baggage charges levied by the carrier booked by SNZ to transport the Swimmer
- complete and return in a timely manner all SNZ administrative forms and documentation requested by SNZ as being necessary for the efficient organisation of SNZ camps/squads/teams/tours
- use all personal grants from SNZ and/or SPARC or any other funder in accordance with any applicable conditions, restrictions or provisions associated with the grant, and upon request to provide a record of the expenditure of these grants
- compete in all SNZ National competitions unless prior written dispensation has been granted by the GMPP. Athletes who have officially retired are excluded from this clause.
- ensure that the GMPP has a copy of the Swimmer's current Individual Performance Plan (IPP) for the current yearly preparation.

7 Medical & Doping Requirements

The Swimmer agrees during the term of this agreement to:

- comply with the WADA, IOC, FINA, SNZ and NZSDA anti-doping rules
- complete a Declaration of Drug Use form as required
- supply a medical certificate to SNZ outlining all medication prescribed either prior to, or during SNZ tours/camps
- authorise their doctor to release specific and relevant medical information, pertaining to performance on a case by case basis, as it relates to SNZ teams, Coach or GMPP
- advise SNZ of any injury or illness which may affect the Swimmer's performance
- seek medical advice and accept intervention to treat the injury or illness
- notify SNZ of retirements and complete all official documentation pertaining to this

8 Sponsorship and Promotion

The Swimmer:

- acknowledges that SNZ is making a major investment in the swimmers performance and agrees to acknowledge this appropriately
- acknowledges SNZ has, and reserves the right in the future to, enter into exclusive commercial agreements with broadcasters, sponsors and other funders for the benefit of SNZ and its members
- agrees to assist and co-operate with SNZ and its commercial partners in performing promotional activities, including attending photographic, filming or recording sessions, attending corporate events and functions and public relations activities subject always to the Swimmer's right (exercised on reasonable grounds) to refuse his/her permission in specific cases
- agrees to provide his/her permission (such permission not to be unreasonably refused) to SNZ to use the Swimmer's image or likeness for any promotional or advertising activity to promote SNZ, the Swimmer and/or a New Zealand camp/squad/team
- agrees to provide his/her permission (such permission not to be unreasonably refused), to allow a SNZ commercial partner to individually use the Swimmer's image or likeness for promotional or advertising activity to promote such commercial partner's products/services. The Swimmer acknowledges that he/she will be provided with the opportunity to participate in performing promotional and/or advertising activities which may or may not be paid, subject to mutual agreement in each case. An exception may be when this promotion of the individual swimmer is in conflict with an existing commercial agreement
- agrees not to associate with, use, or enter into commercial agreements that conflict with the intellectual property of the New Zealand Olympic Committee or that body's commercial arrangements associated logos or brands in relation to the period stipulated for the Olympic Games and Commonwealth Games, without prior written consent from the NZOC
- agrees not to enter into any commercial agreements with any business, organisation or company which competes or otherwise conflicts with any commercial partner or sponsor of SNZ except with SNZ prior written permission
- agrees to advise SNZ of any commercial agreements he/she has signed and to advise SNZ of any potential commercial agreements which the Swimmer is contemplating entering into prior to finalisation of that agreement
- for the avoidance of doubt, any sponsorship agreement which provides solely for the supply of technical swimwear to the Swimmer is not considered to be a sponsorship agreement which competes or conflicts with a commercial partner or sponsor of SNZ provided that the Swimmers agreement with that sponsor is of an individual nature and the swimmer will not be involved in any joint promotion activity with other Swimmers promoting the sponsors products.
- keep SNZ informed (in writing) at all times of any personal religious convictions that they may have that could inhibit their ability to undertake promotional and commercial activity for SNZ, or participate in competition or training on any day of the week. The swimmer acknowledges that their unavailability to train or compete because of their religious convictions may make them ineligible for selection for NZ teams for some competitions as decided by SNZ at its sole discretion.

9 Media Guidelines

The Swimmer agrees:

- to undertake public and media relations communications as requested by SNZ after selection for a camp/squad/team or during a tour
- to liaise with SNZ and/or its squad/team management on all media and public relations requests, prior to undertaking any such activity
- to restrict public comment to his/her own personal performances, and not make any public comment in relation to other swimmers' performances, or the policies, management or administration of SNZ
- not to be accredited as a journalist, writing a newspaper column or similar, or perform media functions while the Swimmer is a member of a camp/squad/team or during a tour, unless the swimmer has the prior written consent of the Chief Executive of SNZ
- to be filmed, televised, photographed and otherwise recorded during a camp/squad/team/tour, which material may be used by SNZ for promotional purposes during the term of this Agreement at the permission of the swimmer (such permission not to be unreasonably withheld).

10 Indemnities:

- the Swimmer agrees that SNZ will not be responsible or liable for any loss or damage (including consequential loss or damage) arising from any injury, damage, illness or other mishap which may be suffered by or to the Swimmer, during the term of the Agreement except where such loss or damage occurs in consequence of the negligence of SNZ or its employees or agents or a failure on the part of SNZ to meet its statutory obligations.
- the Swimmer will be liable for any damage to any property caused by him/her during the term of this agreement, and in the event that SNZ pays for such damage, agrees to, upon demand, reimburse SNZ for such expenditure
- the Swimmer agrees to indemnify SNZ and hold it harmless in respect of any claim made by a third party which arises from the Swimmer’s breach of this agreement, the breach of any statute or regulation by the Swimmer, or the Swimmer’s negligence.
- SNZ does not cover personal property insurance for teams or squads, as this is the swimmers own responsibility.

11 Miscellaneous

The Swimmer agrees to:

- seek professional independent advice on the understanding and effect of the terms of this Agreement prior to signing it
- provide his/her parents’ or guardians’ consent to this Agreement prior to signing it where the Swimmer is 18 years of age or under
- by signing this Agreement, acknowledge that he/she has read and understood it and the obligations under it
- consent to all personal information required by SNZ, being collected and retained by SNZ, and used and distributed by SNZ, to NZSDA, FINA, WADA, SPARC, IOC, their authorised agents, and such other persons as may be necessary, for the sole purpose of administrating the sport of swimming in New Zealand and overseas. The Swimmer has the right to have access to, and correct the information held by, SNZ. The Swimmer gives this consent under the Privacy Act 1993
- this Agreement replaces all previous SNZ Agreements relating to the same subject matter.

SNZ:

- acknowledges the swimmers personal religious convictions and understands the swimmer may not undertake swimming, promotional and commercial activity of any kind, or participate in competition or training on a Sunday. SNZ will not ask the swimmer to undertake such activity on these days.
- by its Chief Executive Officer may, at his sole discretion, and only upon a written specific request by the Swimmer, dispense with of any of the conditions in this Agreement
- will publish and amend criteria from time to time relating to this Agreement

Nothing in this agreement shall be construed as creating the relationship of partnership, employment or joint venture.

12 Disputes

The parties agree that any dispute arising out of, or in connection with this Agreement shall be referred to, for resolution by, the Sports Tribunal of New Zealand in substitution for, and in place of, the dispute resolution provisions of the Constitution of SNZ.

13 Future Selection

Where the Swimmer is indebted to SNZ (whether arising from breach of this agreement or otherwise), the Swimmer acknowledges he/she will not be eligible for future international team selection until such indebtedness has been satisfied.

Signed by the Swimmer: _____ Date _____

Signed for and on _____ Date _____
 behalf of SNZ: Mike Byrne (CEO) or Jan Cameron (GMPP)

We the undersigned parent(s)/guardian(s) of the Swimmer (where the Swimmer is 18 years of age or under), consent to the terms and conditions of this agreement and agree to be liable to SNZ for all liabilities of our child arising from this agreement including the cost of any user pays travel contribution of our child/guardian and/or the cost of any damage caused by our child or guardian.

Signed by Parent/Guardian: _____ Date: _____

Schedule A

CODE OF CONDUCT

As a SNZ member you should meet the following requirements in regard to your conduct during any SNZ sanctioned activity.

- ✓ Respect the rights, dignity and worth of others.
- ✓ Be fair, considerate and honest in all dealings with others.
- ✓ Be professional in, and accept responsibility for, your actions.
- ✓ Make a commitment to providing quality service and performance.
- ✓ Be aware of, and maintain an uncompromising adherence to, standards, rules, regulations and policies.
- ✓ Operate within the Constitution, Regulations, Policies and Procedures of SNZ and FINA.
- ✓ Understand the possible consequences of breaching the SNZ Code of Conduct.
- ✓ Immediately report any breaches of SNZ members to the appropriate authority.
- ✓ Refrain from any form of abuse towards others.
- ✓ Refrain from any form of harassment towards others.
- ✓ Refrain from any form of discrimination towards others
- ✓ Refrain from any form of victimisation towards others
- ✓ Provide a safe environment for the conduct of the activity in accordance with relevant SNZ policy.
- ✓ Show concern and caution towards others who may be sick or injured.
- ✓ Be a positive role model.
- ✓ Never speak to any media in a negative way regarding Swimming NZ Inc.
- ✓ Never act in any way that may bring disrepute or disgrace to SNZ members, its stakeholders and/or its sponsors, potential sponsors and/or partners.

Swimming New Zealand expects all members, supporters, advisors, staff and associates of SNZ to abide by a Code of Conduct that upholds the principles and values of the organisation. Members should recognise that at all times they have a responsibility to a duty of care to all SNZ members.

In addition a Swimmer will:

- ✓ Agree to abide by the Code of Conduct.
- ✓ Never argue with or verbally abuse an official. Always use the appropriate rules and guidelines to resolve a dispute.
- ✓ Not participate (or benefit from assisting others involved) in sports betting or gambling activity associated with swimming events and/or swimming results in which they are participating or have been directly involved in.
- ✓ Conduct himself/herself in a sportsman-like manner and respect fellow swimmers, coaches, managers, staff, officials and the achievement of opponents.
- ✓ Not bully or take an unfair advantage of another competitor.
- ✓ Cooperate with your coach, manager, team mates and opponents.
- ✓ Not to commit an Anti-Doping Rule Violation
- ✓ Not consume or purchase alcohol and tobacco while in SNZ camps or on Tours without the agreement of the Team Manager and Coach.
- ✓ Never consume so much alcohol while in SNZ camps or on Tours so as to become intoxicated or have their judgement impaired
- ✓ Comply with training, competition, curfew and behaviour requirements directed by SNZ, while in camp or on tours.

Any breach of the Code of Conduct, or any part of it, may result in disciplinary action under the SNZ Constitution, Regulations and policies.

SNZ Constitution, Regulations and Policies can be viewed on www.swimmingnz.org.nz

Schedule B

DOPING CONSENT FORM

I acknowledge and understand Swimming New Zealand (SNZ) prohibits the practice of 'doping' and that I must abide by the rules of SNZ, FINA, WADA, IOC and DFSNZ as to doping.

I acknowledge and understand the Drug Free Sport New Zealand (DFSNZ) is empowered under the Sports Acting Doping Act (2006) to collect and arrange for the analysis of samples for the purpose of detecting doping substances or methods banned by the World Anti-Doping Code.

I consent to submit to all requirements of the World Anti-Doping Code and the Sports Anti-Doping Rules (NZ) or any successor Code or Rules which may apply in their place.

In giving consent I note the following points:

- 1** I am aware of the Sports Anti-Doping Act 2006 and World Anti-Doping Code and will submit to requests to undergo drug tests by DFSNZ pursuant to the Act and Rules, or any other Agency appointed by SNZ or any agency authorised to perform drug tests by reason of my participation in an event, as and when required and will provide information necessary for the completion of that process.
- 2** I agree to SNZ passing my personal details to DFSNZ, FINA, IOC, and/or WADA for use in relation to doping control only. This consent is given in accordance with the Privacy Act 1993. I also consent to SNZ collecting personal and medical information about me from DFSNZ, FINA, IOC and /or WADA which will be held by SNZ in accordance with its obligations under the Privacy Act 1993.
- 3** I agree to DFSNZ, FINA, IOC and/or WADA collecting the personal details about me supplied to them by SNZ pursuant to paragraph 2. I acknowledge I have the right to access personal information about me held by SNZ and DFSNZ, and to advise them of any corrections. SNZ will in such case advise FINA, WADA and the IOC of any corrections needed. This consent is given in accordance with the Privacy Act 1993.
- 4** I have read and understand this consent form and agree to meet the requirements as set out in it.
- 5** I understand that should I commit an anti-doping rule violation as set out in the WADA Code or the Sports Anti-Doping Rules it may lead to penalties being imposed on me under The Sports Anti-Doping Rules, World Anti-Doping Code, SNZ Constitution or rules, and/or FINA rules, including release of my name in the event of an anti-doping rule violation.
- 6** I understand my name will not be withdrawn from the list maintained by the DFSNZ and/or FINA for out of competition testing, until I have formally notified SNZ, DFSNZ and FINA (in writing) that I no longer fall within the criteria which determines the swimmers whose names are to be submitted to the DFSNZ and/or FINA.

Schedule C

SNZ - ON TOUR DISCIPLINARY CODE

- 1** Swimmers representing New Zealand are ambassadors for both SNZ and New Zealand. SNZ expects its representatives (including management coaches and athletes alike) to maintain the highest standards of behaviour and to strictly adhere to SNZ's Code of Conduct.
- 2** Such adherence to the Code will be enforced vigorously, but fairly. In the case of serious transgressions there will be a need to consider them promptly on tour. By way of example, (but not restricted to), a serious transgression will be drunkenness / intoxication, sexual harassment, a criminal offence, wilful damage, use of recreational drugs, or physical assault.
- 3** Transgressions of this On Tour Code will be subject to the disciplinary processes and guidelines set out below. Proved serious transgressions could lead to amongst other things, competition withdrawal and/or sending home.
- 4** The process is as follows:
 - ✓ Where complaints or allegations of misconduct are made against any swimmer, they will be immediately referred to the CEO of Swimming New Zealand ("CEO").
 - ✓ The CEO will cause an investigation to be undertaken into the circumstances alleged, and the member against whom the allegation is made will be immediately advised of the nature of the allegation
 - ✓ If the swimmer is 18 years of age or under, SNZ will use its best endeavours to immediately notify the parent(s) and/or guardian(s) of the swimmer affected
 - ✓ The person appointed to investigate the allegation(s) will interview relevant witnesses, gather evidence in relation to the incident, and report to the CEO
 - ✓ Prior to interviewing the swimmer against whom the complaint or allegations are made, SNZ will use its best endeavours to arrange for the swimmer to receive advice or be represented by a suitably qualified person, including but not limited to, a lawyer. The cost of any representation will be the sole responsibility of the swimmer
 - ✓ Upon completion of the investigation, the investigators report will be given to the CEO, and the swimmer affected
 - ✓ If the CEO is of the view that the allegations or complaint is proved to be sufficiently serious, such to involve a potential penalty of withdrawal from the competition or sending home, the CEO will inform the swimmer of that view and seek from the swimmer a response as to why that cause of action should not be contemplated or implemented. After considering the response (if any) of the swimmer, the CEO will then decide, in good faith, whether the circumstances warrant the imposition of a withdrawal from the competition and/or a sending home. Where the decision is made to send the swimmer home, the swimmer shall be liable for any additional travel costs incurred by SNZ sending the swimmer home
 - ✓ Where the swimmer affected is 18 years of age or under, the CEO will additionally use his best endeavours to inform his/her nominated parents and/or guardians and to receive their views, before making a decision
 - ✓ If the CEO is of the view that the circumstances do not warrant either a withdrawal from the competition or a sending home any disciplinary process shall be deferred until the swimmer has returned to New Zealand and the ordinary processes of Swimming New Zealand will thereafter be followed
 - ✓ The CEO and any investigator undertaking any of the processes above will observe to the greatest extent possible in the circumstances the principles of procedural fairness and natural justice. The swimmer acknowledges that in compelling cases of serious misconduct that have occurred overseas, the timeframes for administering the disciplinary process will necessarily be substantially shorter than otherwise would be the case in respect of transgressions in New Zealand. That being the case SNZ is entitled to consider the balance of convenience as a factor in its decision
- 5** The CEO may at his/her sole discretion delegate the responsibilities outlined above to another member of SNZ.