

Registration Waiver for the participation in the New Amsterdam City Swim 2016 to be held at June 12, 2016, in the City of New York (the “**Event**” or the “**Swim**”).

Assumption of Risk and Waiver of Liability and Terms and Conditions of Participation (the “**Agreement**”)

**PARTICIPANTS: READ THIS AGREEMENT CAREFULLY BEFORE ACCEPTING. THIS DOCUMENT HAS LEGAL CONSEQUENCES AND WILL AFFECT YOUR LEGAL RIGHTS.**

Parties:

Released Parties include:

- (1) NEW AMSTERDAM CITY SWIM FOUNDATION, INC. (“NACS”), and its directors, officers, employees, agents, contractors, insurers, equipment suppliers, and volunteers, and NACS’ respective predecessors, successors, subsidiaries and affiliates of the foregoing, whether no longer existing, now existing or formed or incorporated in the future; and
- (2) All NACS’ event sponsors, organizers, promoters, directors, officials, property owners, and advertisers; governmental bodies and/or municipal agencies whose property and/or personnel are used, including but not limited to the Hudson River Park Trust, the People of the State of New York, the New York Executive Department, the New York State Office of Parks, Recreation and Historic Preservation, the New York City Region of State Parks, Recreation and Historic Preservation Commission, the Department of Environmental Conservation, the City of New York, and the New York City Department of Parks and Recreation; and any or all parent, subsidiary or affiliate companies, licensees, officers, directors, partners, board members, supervisors, insurers, agents, equipment suppliers, and representatives of any of the foregoing.

Releasing Parties include: the participant to the Event as well as participant’s spouse, children, parents, guardians, heirs, next of kin, and any legal or personal representatives, executors, administrators, successors and assigns, or anyone else who might claim or sue on participant’s behalf.

For and in consideration of NACS allowing me to enter or to be a volunteer at the Event I am registering for herein, I for myself, and on behalf of the Releasing Parties, hereby agree to and undertake the following contractual representations pursuant to this Agreement:

#### **ASSUMPTION OF INHERENT RISKS**

I am voluntarily entering or agreeing to be a volunteer at the Event. I agree not to enter into or volunteer at the Event unless I am medically able and properly trained. I agree to abide by any decision of an Event official relative to my ability to safely complete the Event.

I recognize that participation in the Event is a potentially hazardous activity and I willingly assume all risks associated with such participation, including, but not limited to the potential for serious bodily injury, sickness and disease, permanent disability, paralysis and death (from drowning or other causes); loss of or damage to personal property and equipment; the effects of the weather including heat and/or humidity, wind, cold temperature; dangers due to exposure to extreme conditions and circumstances; the crowded nature and other conditions of the course, including accidents involving other participants, Event staff, volunteers or spectators; contact or collision with natural or manmade objects; imperfect water conditions; water and surface hazards; facility issues; equipment failure; inadequate safety measures; participants of varying skill levels; situations beyond the immediate control of the Event organizers; and other undefined, not readily foreseeable and presently unknown risks and dangers, all such risks being known and appreciated by me. I understand that these risks may be caused in whole or in part by my own actions or inactions, the actions or inactions of others participating in the Events, or the negligent acts or omissions of any Released Party, and I hereby expressly assume all such risks and responsibility for any damages, liabilities, losses or expenses that I incur as a result of my participation in any Events.

I also understand that it is my responsibility to consult with my personal physician prior to participating in the Event to ensure that such participation will not pose any unusual risks to my health and well being.

I further acknowledge that NACS reserves the right to change the details (such as the date, start time, course, and distance) of, and amenities offered at the Event at any time for any reason and I hereby waive and release any claims that I may have as a result of any such changes.

Having read this Agreement and knowing these facts, and in consideration of NACS acceptance of my application for the Event, I, for myself and anyone entitled to act on my behalf, waive and release the Released Parties from present and future claims and liabilities of any kind, known or unknown, arising out of or related to my participation in the Event, including, but not limited to, claims for damage for personal injury and/or property damage, any claim of right in respect of the Images (as defined below), including, but not limited to, claims of false endorsement or rights of publicity or privacy, even though such claim or liability may arise out of negligence or fault on the part of any of the Releasing Parties.

#### **AUTHORIZATION**

I grant medical personnel at the Event permission to administer or arrange for any medical assistance that they deem necessary or appropriate as a result of my participation in the Event, including without limitation, arranging transportation to a hospital of other medical facility. I also grant them access to my medical records and physicians, as well as other information, relating to medical care that may be administered to me at the Event as a result of my participation in the Event.

## **TERMS AND CONDITIONS**

I hereby understand, acknowledge and agree that once I have entered the Swim, my entry fees are non-exchangeable, non-transferable, and non-refundable, under any and all circumstances, including, but not limited to, cancellation of the event or of NACS' participation, or change in the date, nature, or format of the event.

I hereby understand, acknowledge and agree that an event may be cancelled or changed due to severe weather or other factors that threaten the safety of participants, staff, or volunteers. I further understand, acknowledge and agree that cancellation or change of the date, nature, or format of an event may be mandated by governmental officials or otherwise be at the discretion of NACS.

I hereby understand, acknowledge and agree that my participation is further subject to (financial) terms and conditions at set forth in ANNEX I hereof.

I hereby understand, acknowledge and agree that NACS reserves the right to reject any entry and to disqualify and bar any individual from the Event for any reason. This rejection/disqualification may be based on, but is not limited to:

(i) violation of any rule or safety parameter set forth by NACS, the Hudson River Park Trust, the People of the State of New York, the New York Executive Department, the New York State Office of Parks, Recreation and Historic Preservation, the New York City Region of State Parks, Recreation and Historic Preservation Commission, the Department of Environmental Conservation, the City of New York, and the New York City Department of Parks and/or, any New York City agency, or any other governing body; (ii) unsportsmanlike conduct; (iii) non-payment of participation fees; (iv) competing with an unofficial number; (v) competing with an official number or time registration chip or device used for such purpose assigned to another person; (vi) transferring or attempting to transfer an official number or time registration chip or device used for such purpose, or to obtain such number or device from, another person; (vii) crossing the finish line without having completed the entire course; (viii) and providing false information on the Swim entry form. Individuals disqualified from the Swim will be removed from the Swim results and may be barred from future events

## **PUBLICITY RELEASE**

I hereby grant to NACS the irrevocable and assignable right to depict in perpetuity, worldwide, and in any and all media now or hereafter known, my likeness, image, name, words, voice, and/or biographical information of me participating in the event (collectively "**Images**") in photographic works, motion pictures, video recordings and/or other works, and I agree that such Images may be used by NACS for any purpose without compensation.

## **ACKNOWLEDGMENT OF UNDERSTANDING**

I have read this Agreement and fully understand its terms. I understand that I am giving up substantial rights, including my right to sue. I further acknowledge that I am freely and voluntarily agreeing to the Agreement and participating in the Event, and intend my acceptance to be a complete and unconditional release of all liability due to ORDINARY NEGLIGENCE of NACS (and other Released Parties) or the INHERENT RISKS of the activity, to the greatest extent allowed by New York law.

I hereby warrant that I am of legal age (i.e. not a minor) and competent to enter into this Agreement, that I have read this Agreement carefully, understand its provisions, acknowledge that I will be giving up substantial legal rights by signing it (including the rights of my spouse, children, heirs and next of kin, and any legal and personal representatives, executors, administrators, successors, and assigns), acknowledge that I have signed this Agreement without any inducement, assurance, or guarantee, and intend for my signature to serve as confirmation of my complete and unconditional acceptance of the terms, conditions and provisions of this Agreement. This Agreement represents the complete understanding between the parties regarding these issues and no other written or oral representations, statements, or inducements have been made apart from this Agreement. If any provision of this Agreement is held to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

**The New Amsterdam City Swim Foundation, Inc.**

666 3rd avenue #19

New York NY10017

USA

## **ANNEX I to the Terms and Conditions of Participation**

### **General**

1. The Event is an initiative of and organized by New Amsterdam City Swim (NACS). Only NACS is responsible for the program of the New Amsterdam City Swim 2016 and the content of the website of NACS ([www.newamsterdamcityswim.com](http://www.newamsterdamcityswim.com)) ("**Website**").
2. Participants may register on an individual basis for the New Amsterdam City Swim 2016, as a member of a business team ("**Business Team**"), or as a member of a student team ("Student Team"). A Business Team consists of a maximum of 4 Participants who are employees or affiliated to a business or organization. A Business Team may not be used for promotional or commercial activities other than the participation itself. A Student Team consists of a maximum of 4 Participants who are students at a college or university.
3. The participation fee for the New Amsterdam City Swim 2016 is USD 75 per Participant, USD 2,000 per Business Team and USD 100 per Student Team.
4. Each Participant agrees to comply with the policies of NACS applicable to the use of the Website, in particular where such regards the uploading of information or other content by the Participant.
5. NACS will send a starting permit for the New Amsterdam City Swim 2016 to each Participant. The starting permit will be sent by email only and to the email address of the Participant as indicated by the Participant on the application form.
6. Each Participant is required to show a valid ID and a valid starting permit in order to be admitted to the start area of the New Amsterdam City Swim 2016 on Pier 26 Hudson River Park, New York.
7. NACS will use an electronic time registration system to register the start and finish time of each Participant. Each Participant agrees that the results of the Swim are based on the aforementioned system and decisive for the results and finish time of each Participant.
8. The Registration Waiver, including this Annex I, as included on the Website for information purposes, may be amended by NACS from time to time. In case of an amendment, the version as signed by the Participant directly before the Swim shall prevail.

### **Donations**

1. Each Participant agrees to raise at least USD 500 of donations ("**Donations**"). Each Participant who is a member of Business Team agrees that his/her Business Team raises at least USD 2,000 per team in total. Each Participant who is a member of Student Team agrees that his/her Student Team raises at least USD 250 per team in total.
2. Donations should be made to NACS through the payment facilities linked through the personal page of the Participant on the Website under the further terms as set forth on the Website.
3. The minimum amount of Donations should be paid by each Participant at the latest on June 12, 2016.
4. On the homepage of the Website the net amount of Donations will be shown, meaning donations minus payment transaction costs. On the personal page of the Participant on the Website the gross amount of Donations (i.e. the Donations excluding transaction costs) will be shown.
5. Participants failing to collect the required amount of Donations shall in principle be excluded from participation in future events organized by NACS.