

## ST PETER'S TRUST BOARD POLICY

### Swim School Terms and Conditions

By enrolling your child with St Peter's Swim School (Swim School / Swim School at St Peter's), you acknowledge that you have read and accepted the following terms and conditions.

#### 1.1 APPLICATION

- a) Unless otherwise agreed in writing by St Peter's School, Cambridge (Swim School), the following terms (Terms) will apply in respect of the provision of swimming lessons by the Swim School (the Services) to the Customer (the Customer, which includes any nominated child in the Customer's care utilising the Services (Student)). The Customer acknowledges that the supply of all Services by the Swim School will be subject to these Terms and any additional rules notified at the Swim School from time to time (Rules).
- b) If there is any inconsistency between a provision of these Terms and any provision in any other written agreement between the Customer and the Swim School, the provisions will apply in the following descending order of priority:
  - i. the provisions in any written agreement between the Customer and the Swim School; and
  - ii. these Terms, provided that these Terms will prevail over any other terms and conditions stipulated by the Customer or included as part of any of the Customer's documentation unless such other terms are expressly acknowledged and agreed to in writing by the Swim School.
- c) The Swim School may amend these Terms at any time. The amended Terms will apply in respect of any Services that are carried out by the Swim School following the date the amended Terms are notified to, or otherwise agreed to, by the Customer. Subject to these Terms, the Customer acknowledges and agrees that the Swim School opening and closing hours, services, instructors, facilities and fees may need to change from time to time. In the event of such changes, the Swim School shall use reasonable endeavours to inform the Customer in advance.

#### 1.2 ENROLMENT

- a) The Customer acknowledges and agrees that acceptance of a request for enrolment is at the Swim School's sole discretion.

#### 1.3 HEALTH AND SAFETY

- a) The Customer agrees to comply with all health and safety legislative requirements, including the Health and Safety at Work Act 2015 and all related legislative instruments, guidance and codes of practice (Health and Safety Legislation).
- b) To the extent that the Customer has overlapping duties with the Swim School, the Customer agrees to consult, co-operate and co-ordinate its activities so far as is reasonably practicable with the Swim School.
- c) The Customer will comply at all times with all the Swim School's reasonable directions and will notify the Swim School of any identifiable hazards which come to the Customer's attention in relation to the Services or while on the premises.
- d) The Customer agrees to provide all reasonable assistance to the Swim School in relation to any investigation (whether conducted by a customer, the Swim School or a regulatory agency) into a notifiable event at no cost to the Swim School.
- e) The Customer must ensure that all Students (except babies under the age of 36 months wear swimming caps during lessons and when otherwise using the pools. Swimming nappies must also be worn by Students under the age of three years.

- f) It is essential that the Swim School maintains high standards of hygiene and cleanliness. Accordingly, Customers and Students must not use any Swim School facilities (Facilities) if they have:
- i. an infection of any sort;
  - ii. an illness that may be contagious;
  - iii. a physical complaint (including but not limited to open cuts or other wounds); or
  - iv. any other ailment or complaint that may result in a risk to other students or customers.
- g) The Customer confirms that at the time of entering into these Terms and undertakes that for the duration of the Student's participation in lessons:
- i. the Student is in good health and physical condition and you are not aware of any reason (medical or otherwise) why the Student should not participate in lessons;
  - ii. the Student's participation in the lessons will not do any harm to the Student's health, safety or well-being or that of any other customer or student at the Swim School; and
  - iii. neither the Customer nor the Student will do anything that may affect the safety of the Student or anyone else at the Swim School.
- h) The Customer shall inform the Swim School immediately of any changes to a Student's contact details, health or anything else that may affect the Student's participation in Swim School lessons.
- i) The Customer is responsible for any children (including Students) he or she brings with him or her into any part of the Facilities including the changing area and must be actively supervised at all times while on the premises.
- j) The Customer shall not leave the Swim School premises whilst the Student is in the pool.
- k) The Customer acknowledges and agrees that Students are not the responsibility of the Swim School until the Student enters the swimming pool at the start of a lesson. Students are not permitted into the pool prior to their lesson starting and must exit the pool promptly at the end of a lesson.
- l) The Customer must ensure the Student complies with all aspects of the Rules and any signs displayed at the Swim School as well as all instructions and directions from Swim School staff.

#### **1.4 LOSS OF/DAMAGE TO PROPERTY**

- a) To the extent permitted by law, the Swim School is not responsible for the loss of or damage to personal items prior to, during or after a swimming lesson. All property left by you on the premises (including without limitation in the changing rooms and in the car park) is done so at your own risk.
- b) The Customer acknowledges and agrees that they may be held financially responsible for any damage to or loss of property caused by the Customer or Student while on the premises.

#### **1.5 PRICE AND PAYMENT**

- a) The price payable for any Services supplied by the Swim School to the Customer (Price) will be:
- i. the price agreed between the parties; or
  - ii. in the absence of any agreement between the parties, the Swim School's standard prices applicable for the Services at the time the relevant request for enrolment is accepted by the Swim School.
- b) The Customer shall pay an initial pro-rata payment upon enrolment, which amount shall be based on the number of sessions before the first direct debit payment. The remainder of the Price will be payable by the Customer in advance on the 1st of each month (Due Date) by direct debit from a

bank account or a credit card nominated by the Customer. The amount debited each month may vary depending on the number of lessons that fall within a calendar month (for example, some months may have four lessons and some months may have five). The direct debit form contains relevant terms and conditions. By completing and signing the form, the Customer agrees to those terms and conditions.

- c) The Price is subject to alteration by the Swim School, in its sole discretion, at any time prior to the commencement of a Swim School Term. The Swim School will use reasonable efforts to advise of any Price increase prior to such increased Price taking effect. Provided such efforts have been made by the Swim School, the Customer authorises the Swim School to increase deductions from his or her nominated account or credit card in accordance with the increase.
- d) Unless expressly stated in writing, all amounts quoted by the Swim School will be deemed to include GST and all consumables and reasonable out of pocket expenses incurred by the Swim School in providing the Services.
- e) If the Customer fails to pay any amount due to the Swim School on or before the relevant Due Date, the Swim School may:
  - i. suspend the Student's attendance at the lessons until the payments are up to date including any bank charges and recovery costs associated with the late payment, which the Customer hereby authorises the Swim School to deduct from your nominated account; or
  - ii. terminate the Services with immediate effect without liability to the Customer or the Student.
- f) The Customer must ensure that:
  - i. he or she has taken all necessary steps to set up his or her nominated account to enable the Swim School to deduct direct debits on a monthly basis as set out above;
  - ii. there are sufficient funds in his or her nominated account on the Due Date to cover the deductions and for a period of three days after Due Date;
  - iii. he or she notifies the Swim School prior to making any changes to his or her nominated bank account.
- g) If a direct debit deduction is unsuccessful for any reason, the Swim School will require payment of any outstanding fees by cash, cheque, Eftpos or credit, plus an additional \$10 to cover administrative charges, before the Student may participate in any lesson.

#### **1.6 MAKE-UP LESSONS/SUSPENSION/ CANCELLATION**

- a) If you are unable to attend your regular day and time due to sickness, holidays, or for unexpected reasons which sometimes pop up, all you need to do is mark your absence via our Parent Portal or App at least 2 hours before the start of your lesson and choose a make-up lesson convenient to you.
- b) To book a make-up lesson you must be a current booked customer and with your fees up to date.
- c) Make-up lessons are not guaranteed and are subject to availability and may only be booked 48 hours in advance. Make-up lessons must be taken within 60 days of the missed lesson. If the Customer cancels a make-up lesson, the Customer shall not be entitled to any further make up lesson in respect of such cancellation.
- d) Makeup lessons can be booked only after the date of absence. No refund or credit will be given as an alternative for make-up lessons.

- e) Make-up lessons may not be transferred to another student or family members.
- f) Make-up lessons are available for term time, Learn to Swim 30 and 45 minute lessons. Make-up lessons are not available for fast tec, private or holiday programme lessons.
- g) The Customer may, upon written notice to the Swim School, suspend the Services for a period of between two and four consecutive weeks per year without losing the Student's place in the relevant class. The Customer must give such written notice no later than the 25th of the calendar month prior to the month in which the suspension is to take place. The Customer may only suspend the Services in accordance with this clause 6(f) once in each calendar year.
- h) If the Customer suspends the Services in accordance with clause 6(b), a suspension fee of 50% of the Price for the relevant suspension period will be payable by the Customer.
- i) If the Customer wishes to cancel term time bookings and stop the Direct Debit payment, they must notify the swim school by email (swimschool@stpeters.school.nz) no later than the 25th of the month before the cancellation is needed. Failure to cancel on time by email will result in the following month being charged. No refunds or credits will be given if the cancellation notice has not been given in writing by the due date.
- j) Due to Holiday programme bookings extending over the 5-day period, and the nature of the fast tech/private style of these courses, refunds are unable to be offered upon cancellation. However, our team will endeavour to rebook another student into this space. If successful, a refund will be issued.

### **1.7 SWIM SCHOOL RESPONSIBILITIES**

- a) The Swim School will provide the Services with competence and skill.
- b) Provided the Swim School has complied with its obligations under 7(a), the Customer acknowledges and agrees that he or she has no claim against the Swim School for loss or damage of any kind whatsoever:
  - i. to personal property; or
  - ii. to the Customer or Student (or personal property) for events beyond our reasonable control or that could not have reasonably been foreseen.
- c) The safety of Customers and Students is the Swim School's primary concern. However, due to the nature of the Facilities, the Customer acknowledges that there are risks. The Customer agrees that his or her use of the Facilities and the participation by the Student in lessons at the Swim School is entirely at the Customer and Student's own risk and releases the Swim School from all liability to the extent permitted by law.

### **1.8 NO WARRANTIES**

- a) Except as expressly set out in writing by the Swim School in respect of any Services, the Swim School makes no representation, warranty or undertaking (whether express or implied) in relation to any Services. To the maximum extent permitted by law, all such representations, warranties and undertakings are excluded.
- b) Where the Customer is acquiring, or holds itself out as acquiring, any Services for the purposes of a business in terms of section 43(2) of the Consumer Guarantees Act 1993 (Act), the Customer will not assert or attempt to assert any rights or claims against the Swim School under the provisions of the Act. NOTHING IN THESE TERMS IS INTENDED TO MODIFY, LIMIT OR NEGATE THE CUSTOMER'S STATUTORY RIGHTS, INCLUDING, BUT NOT LIMITED TO, UNDER THE CONSUMER GUARANTEES ACT 1993 AND THE FAIR TRADING ACT 1986. THE PROVISIONS OF THESE TERMS SHOULD BE READ SUBJECT TO THE CUSTOMER'S STATUTORY RIGHTS.

## 1.9 INDEMNITY AND LIMITATION OF LIABILITY

- a) To the extent permitted by law, the Customer will indemnify the Swim School at all times against any loss, damage or costs suffered or incurred by the Swim School as a direct or indirect result of a breach by the Customer of any of its obligations under these Terms (including without limitation all dishonour fees, debt collection, collection agency costs and legal costs on a solicitor/client basis).
- b) Subject to the Customer's rights under the Consumer Guarantees Act 1993, the maximum liability of the Swim School to the Customer under or in connection with these Terms or in relation to any Services will be limited to a refund of the Price actually paid by the Customer for the Services in the previous calendar year.
- c) Nothing expressed or implied in these Terms will confer any liability on the Swim School for any consequential, indirect or special loss, damage, cost or expense suffered or incurred by the Customer as a direct or indirect result of a breach by the Swim School of any of its obligations under these Terms.

## 2.1 CANCELLATION OR SUSPENSION OF SERVICES

- a) The Swim School may, at its sole discretion, cancel or suspend the provision of any Services to the Customer and Student if the Customer or the Student:
  - i. breaches these Terms or fails to comply with any Rules;
  - ii. acts in such a way that put the safety of the Customer, Student or other customers or students or staff of the Swim School at risk;
  - iii. damages the Swim School's facilities or equipment;
  - iv. uses illegal substances within the Swim School's facilities or enters the premises under the influence of alcohol or drugs; or
  - v. solicits or operates a business on the premises, without the Swim School's consent.
- b) The Customer may cancel this agreement with immediate effect if:
  - i. the Swim School breaches these Terms and does not remedy the breach within a reasonable period after the Customer notifies the Swim School of such breach;
  - ii. the Swim School increases the Price in accordance with clause 5(c);
  - iii. the Student becomes sick or is incapacitated and the Customer provides to the Swim School a medical certificate showing that the Student cannot continue with lessons; or
  - iv. the Customer is judged bankrupt and provides the Swim School with evidence that he or she has been declared bankrupt.
- c) If the Customer cancels this agreement in accordance with clause 10(b), the Swim School shall refund the Customer any part of the Price that has been paid in advance for which the Customer has not received a corresponding lesson at the time of cancellation.

## 2.2 USE OF INFORMATION

- a) The Customer acknowledges that:
  - i. any information provided by the Customer to the Swim School may be collected, stored, provided to third parties and used by the Swim School for any purpose connected with the Swim School's business including (but not limited to) direct marketing, debt collection and credit reporting or assessment; and
  - ii. the Swim School and any external agency or party may retain and/or use such information for as long as they see fit.
- b) Personal information will be collected, held and used in accordance with the Privacy Act 2020 and our Privacy Policy located at [here](#). The Customer may request access to and correction of any personal information held by the Swim School at any time by contacting the Swim School's privacy officer at [swimschool@stpeters.school.nz](mailto:swimschool@stpeters.school.nz) or by sending his or her request to: St Peter's Swim School, 1716 Cambridge Road, Cambridge 3283

**2.3 PHOTOGRAPHY/FILMING**

- a) The Customer:
  - i. acknowledges and accepts that the Swim School may, from time to time, take photographs or other recordings at the premises for the production of its promotional or marketing materials;
  - ii. gives their unconditional and irrevocable consent to themselves, the Student and any other person under their control being photographed or filmed, by or on behalf of the Swim School, without compensation or credit; and
  - iii. agrees that the Swim School will own all intellectual and other proprietary rights (including copyright) in all images taken by or on behalf of them pursuant to clause 12(a)(ii) and may use them for promotional or marketing materials.
  
- b) Notwithstanding clause 12(a)(ii), where in the Swim School's discretion the Customer, Student or any other person in the Customer's control is clearly identifiable in any image, the Swim School will use its reasonable endeavours to obtain the Customer's consent before using any such image in its promotional or marketing materials, without compensation or credit, such consent not to be unreasonably withheld or delayed.

**2.4 GENERAL**

- a) The Swim School and the Customer each acknowledge that these Terms, and any agreement agreed in writing between the parties which expressly refers to these Terms contain the entire understanding and agreement between them and that there have been no representations made by either party to the other except as expressed in these Terms.
  
- b) If any provision of these Terms is found to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected.
  
- c) The Customer may not assign, subcontract or hold on trust for any third party any of its rights under these Terms without the prior written consent of the Swim School.
  
- d) The Swim School will not be liable for any default under these Terms due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm, pandemic or any other event beyond the reasonable control of the Swim School.

**Head of Commercial & Operations:** Mike Calvert



**Head of Commercial & Operations Signature:** \_\_\_\_\_ **Date:** 23 January 2024

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