



SERVICES AGREEMENT

BETWEEN: **SWIMMING NATATION CANADA**, a duly incorporated corporation, having its head office at _____, herein represented by _____, duly authorized as he/she so declares,

(Hereinafter called “**CLIENT**”)

PARTY OF THE FIRST PART

AND: **VENDOR INC.**, a duly incorporated corporation, having its head office at _____, herein represented by _____, duly authorized as he/she so declares,

(Hereinafter called “**VENDOR**”)

PARTY OF THE SECOND PART

WHEREAS On <date>, CLIENT issued a Request for Proposals, soliciting a <Sport Name> Registration System and related services (the “RFP”);

WHEREAS VENDOR submitted a proposal to CLIENT in response to the RFP for provision of the Canadian <Sport Name> Registration System, including related services, (the “PROPOSAL”) and CLIENT issued a notice of intent to award the contract to VENDOR as the highest-scoring proposer; and

WHEREAS CLIENT and VENDOR now desire to enter into this Contract for the utilization of the VENDOR proposed solution;

WHEREAS VENDOR can legally allow use of the _____™ solution, as installed and functioning on servers used by VENDOR;

WHEREAS the services of VENDOR may include customization of the _____™ platform, so as to adapt it to certain specific needs of CLIENT, as well as support as to the _____™ platform, as more fully described in the RFP and the SPECIFICATION and as may be further described herein;

WHEREAS if other ancillary products or services should prove necessary, beyond those expressly provided for by this Contract, VENDOR or one of its affiliates may agree with CLIENT, in a separate written agreement, as to the terms and conditions according to which such products or services will be provided, as the case may be;

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NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1 – DEFINITIONS

1.1 In addition to terms defined elsewhere in this Contract, the definitions set forth below and in the RFP apply to this Contract, subject to the order of precedence set forth in Section 10.8 of this Contract:

- 1.1.1 **“ACCESS CODE”** refers to the user identifier for a _____ USER, as may be generated by CLIENT so as to allow an individual user to be recognized by the _____ system and, hence, be able to access and use _____, as provided herein;
- 1.1.2 **“AVAILABILITY STANDARD”** refers to the applicable _____ and SERVERS availability standard that will apply during any given (calendar) trimester, throughout the term of this agreement, as set forth in Schedule “B” hereto;
- 1.1.3 **“CUSTOMER”** refers to persons that are not employees of CLIENT or USER GROUP and are customers of USER GROUP whose intent is to use _____ for the purpose of registering or participating in events being offered by USER GROUP;
- 1.1.4 **“DATA”** refers to data and personal information created and/or generated by USER GROUP, excluding, however, technical components of _____ itself, and that relate either to individual consumers and CUSTOMERS for goods and services offered by USER GROUP, to business rules of USER GROUP, or to financial or other information that USER GROUP may generate in the normal course of its business;
- 1.1.5 **“EFFECTIVE DATE”** refers to the date designated as such on the execution pages hereof;
- 1.1.6 **“EXTRANET”** refers to the extranet that VENDOR makes available for its clients and USERS of _____, as used *inter alia* so as to allow the dissemination of documentation pertaining to the _____ system;
- 1.1.7 **“HOURLY RATES”** refers to the hourly rates identified as such in Schedule “C”;
- 1.1.8 **“MAINTENANCE PERIOD”** refers to the periods of time agreed to by VENDOR and CLIENT in advance and during which _____ and/or any of the SERVERS of VENDOR are or non-functional or unavailable for use by CLIENT, so as to allow maintenance work, update or upgrade thereto;

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- 1.1.9 “_____” refers to the _____™ platform, as designed and hosted by VENDOR (also the “Licensed Programs”);
- 1.1.10 “**PRICE**” means the consideration to be paid to VENDOR by CLIENT, in exchange of CLIENT’s access to and use of _____ and the SERVICES to be provided hereunder, the whole as more fully described herein and, in particular in Schedule “C” hereto;
- 1.1.11 “**PROGRAMMING ERROR**” means a defect or an error in the source code of _____ and that prevents _____ from executing functionality described in the SPECIFICATIONS, as defined in sub-section 8.2 hereto;
- 1.1.12 “**SERVERS**” refers to the computers and servers of VENDOR on which _____ and the data it generates and uses are physically installed or saved;
- 1.1.13 “**SERVICES**” means all services that VENDOR undertakes to provide to CLIENT hereunder, including customization, access and support, as the case may be, the whole as set forth in detail in Schedule “B” hereto;
- 1.1.14 “**SOFTWARE ERROR**” means any software instruction or statement contained in or absent from _____, which, by its presence or absence, prevents _____ from operating in accordance with the SPECIFICATION;
- 1.1.15 “**SPECIFICATION**” refers to the description of the requirements on, and the capabilities of _____, as set out in Schedule “B”.
- 1.1.16 “**THIRD-PARTY SYSTEM**” refers to an application, a solution and/or a system (whether it be hardware or software) produced or provided by a provider or supplier of CLIENT other than VENDOR, the functions of which may complement, interact with and/or overlap those of _____;
- 1.1.17 “**TRANSACTION**” means an operation made by a USER through _____, including without limitation crediting or debiting the account of a customer or cancellation of an operation previously processed through the system;
- 1.1.18 “**USER GROUP**” means the organizations that are authorized by CLIENT to use _____, as set out in Schedule “B”
- 1.1.19 “**USERS**” means the individuals employed or appointed by the USER GROUP whom are permitted by the CLIENT to use _____;
- 1.1.20 “**WORKING HOURS**” refers to the period between 8:30 and 17:00, Eastern Time, from Monday to Friday, excluding statutory holidays.

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SECTION 2 – OBJECT

- 2.1 For and in consideration of the payment by CLIENT of the PRICE, VENDOR shall provide to CLIENT a non-exclusive access to _____ for USER GROUP and CUSTOMERS, through the Internet, as installed and functioning on the SERVERS, as well as generally provide the SERVICES described herein, the whole subject to the terms and conditions set forth in this agreement.
- 2.2 CLIENT shall designate organizations to be part of the USER GROUP that are authorized to utilize _____. The USER GROUP is set out in Schedule B and may be updated from time to time at the sole discretion of the CLIENT. CLIENT shall provide notification to VENDOR of any changes to the USER GROUP, and VENDOR shall initiate and support access to _____ for the USER GROUP, its designated USERS and its CUSTOMERS.
- 2.3 CLIENT acknowledges that ownership of _____ belongs to the VENDOR or its licensor and is not transferred to CLIENT. As a result, any reference in the Contract to any part of _____ as a deliverable must be interpreted as a reference to the license to use _____, not to own the _____.
- 2.4 CLIENT acknowledges that, in performing any warranty, maintenance, support and professional services related to the _____, VENDOR and its employees, agents, and subcontractors may develop and share with CLIENT ideas, know-how, teaching techniques and other intellectual property. Unless otherwise provided in the Contract, ownership to that intellectual property will remain with the VENDOR. As long as the VENDOR at all times observes the confidentiality provisions of the Contract, VENDOR will be entitled to use that intellectual property for whatever purposes it sees fit, including in the services it provides to its other customers, on the condition that CLIENT also has the right to use that intellectual property for its own business purposes at no additional cost. VENDOR agrees that all data, know-how or other intellectual property created or owned by CLIENT will remain the property of CLIENT, regardless of whether that data is created, processed, or stored using _____.

SECTION 3 – SERVICES

- 3.1 During the term of this agreement, VENDOR shall provide the SERVICES to CLIENT, in accordance with the provisions hereof and the description set forth in Schedule “B” hereto.
- 3.2 CLIENT may request additional services from VENDOR beyond the SERVICES and VENDOR agrees to provide such services at a price that shall not exceed HOURLY RATES, subject to any contrary written agreement between the parties.

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- 3.3 VENDOR may sub-contract some of its performance of the SERVICES but only with the written agreement of CLIENT. CLIENT retains the right to perform its own due diligence on any potential subcontractor and may reject such a subcontractor at its sole discretion.
- 3.4 VENDOR may make _____ and/or its SERVERS unavailable on a temporary basis, outside of WORKING HOURS, for purposes of performing maintenance, updates or upgrades to _____ or the SERVERS, upon forty-eight (48) hours prior notice to CLIENT and USER GROUP, by email.
- 3.5 Work Subject to Acceptance: All services provided under the Contract are subject to inspection by CLIENT. If _____ does not meet the SPECIFICATIONS, CLIENT may reject it or require that it be corrected, at the sole expense of the VENDOR, before providing payment.
- 3.6 Effect of Acceptance: Acceptance by CLIENT does not relieve the VENDOR of any responsibility for defects or other failures to meet the requirements of the Contract or the VENDOR's responsibilities with respect to warranty, maintenance or support under the Contract.
- 3.7 Period of Acceptance: Unless provided otherwise in the Contract, the acceptance procedures are as follows:
- 3.7.1 When the Work is complete, the VENDOR must notify the CLIENT in writing by referring to this provision of the Contract and requesting acceptance of the Work;
 - 3.7.2 CLIENT will have thirty (30) days from receipt of the notice to perform its inspection (the "Acceptance Period").
- 3.8 If CLIENT provides notice of a deficiency during the Acceptance Period, the VENDOR must address the deficiency as soon as possible and notify CLIENT in writing once the Work is complete, at which time CLIENT will be entitled to re-inspect the Work before acceptance and the Acceptance Period will begin again.
- 3.9 CLIENT may report to the VENDOR any failure of _____ to operate in accordance with the SPECIFICATION during the term of the agreement. CLIENT may report failures either in writing or by telephone or other remote communication. Upon receipt of a report of a failure from CLIENT, unless provided otherwise in the Contract, the VENDOR must use all reasonable efforts to provide CLIENT within the time frames established in subsections 3.11 and 3.12, with a correction of the SOFTWARE ERROR which caused the failure. Any such software correction must cause _____ to meet the SPECIFICATION. The VENDOR must use all reasonable efforts to provide permanent corrections for all SOFTWARE ERRORS and the VENDOR warrants that _____ will meet the functional and performance criteria set out in the SPECIFICATION. All

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SOFTWARE ERROR corrections will become part of _____ and will be subject to the conditions of CLIENT's license with respect to _____.

3.10 Unless provided otherwise in the Contract, the VENDOR must respond to a report of a SOFTWARE ERROR in accordance with the severity of the SOFTWARE ERROR, as detailed in subsection 3.12. The severity will be reasonably determined by CLIENT, and communicated to the VENDOR, based on the following definitions:

"Severity 1": indicates total inability to use _____, resulting in a critical impact on CUSTOMER or USER objectives;

"Severity 2": indicates ability to use _____ but CUSTOMER or USER operation is severely restricted;

"Severity 3": indicates ability to use _____ with limited functions which are not critical to overall CUSTOMER or USER operations;

"Severity 4": indicates that the problem has been by-passed or temporarily corrected and is not affecting user operations.

3.11 Unless provided otherwise in the Contract, the VENDOR must use reasonable efforts to correct SOFTWARE ERRORS as follows: "Severity 1": within twenty-four (24) hours of notification by CLIENT;

"Severity 2": within seventy-two (72) hours of notification by CLIENT;

"Severity 3": within fourteen (14) days of notification by CLIENT;

"Severity 4": within ninety (90) days of notification by CLIENT.

3.12 If CLIENT reports a SOFTWARE ERROR to the VENDOR, CLIENT must provide such information as the VENDOR may reasonably request, including sample output and other diagnostic information, in order to permit the VENDOR to expeditiously correct the SOFTWARE ERROR.

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SECTION 4 – SECURITY, PERSONAL INFORMATION PROTECTION AND COPIES OF DATA

- 4.1 During the term of this agreement, VENDOR undertakes to respect the security policies that CLIENT defined in this agreement (including but not limited to Schedule E) and as may be brought to VENDOR’s attention from time to time.
- 4.2 VENDOR shall treat any and all personal information in its possession in accordance with the obligations set forth in Schedule “E” hereto, as may be updated from time to time by CLIENT. During the term of this agreement, VENDOR shall not use nor disclose any personal information contained in the DATA for any purpose other than providing the SERVICES to CLIENT. Immediately upon the termination or expiry of this agreement, VENDOR shall provide a copy of the DATA to CLIENT and subsequently destroy any copies of the DATA then in its possession. Upon request from CLIENT, VENDOR shall produce an affidavit signed by one of its officers to the effect that VENDOR has destroyed the DATA generated by CLIENT’s use of _____, and that VENDOR no longer has any copies thereof on whatever medium in its possession.
- 4.3 VENDOR will comply with all applicable privacy legislation including the *Personal Information Protection and Electronic Documents Act*, as amended.

SECTION 5 – PRICE AND PAYMENT TERMS

- 5.1 In consideration for the performance of the SERVICES by VENDOR in accordance herewith, CLIENT shall pay to VENDOR the PRICE set forth in Schedule “C” hereto (plus taxes), according to the payment terms set forth in the said schedule.
- 5.2 In addition to the PRICE and other fees payable hereunder, CLIENT shall pay any and all applicable sales taxes on any and all amounts payable hereunder.
- 5.3 Any amount due hereunder that remains unpaid after the due date will bear interest at a rate of eighteen percent (18%) per year (1.5% monthly), from the date of the invoice at issue.
- 5.4 VENDOR reserves the right to interrupt or limit its performance of SERVICES, during the term of this agreement, should any portion of the PRICE remain unpaid after it has become due in accordance herewith.
- 5.5 Should VENDOR not respect the AVAILABILITY STANDARD of _____ set forth in Schedule “B” hereto during any (calendar) trimester, then VENDOR shall credit to CLIENT the equivalent of a monthly payment of the fees relating to access to _____, plus any and all applicable taxes.

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SECTION 6 – TERM AND TERMINATION

6.1 The term of this agreement will commence on the EFFECTIVE DATE and end on the first of the following dates :

6.1.1 The date upon which a party hereto is deemed to have terminated this agreement in accordance with sub-section 6.2; or

6.1.2 **August 31, 2029** unless renewed at the option of CLIENT as set out in section 6.3.

6.2 This agreement will be deemed terminated upon a party hereto:

6.2.1 Failing to cure its default to this agreement within thirty (30) days of its receipt of a notice in writing, from the other party, identifying the default at issue; or

6.2.2 Makes an assignment of its assets for the benefit of its creditors, makes a proposal to its creditors, or was the object of a petition in bankruptcy or a similar process relating to its liquidation or of a final process, the whole if such process or filing is not set aside within fifteen (15) days of its filing or issuance, or if the party at issue adopts a resolution with a view to liquidate its assets, or if it is the object of sequestration of a substantial part of its assets by either an official receiver, a trustee in bankruptcy, a liquidator or any other person, then such party will be deemed to have terminated this agreement upon the date of such occurrence or the expiry date of the delay granted to remedy to the situation, as the case may be.

6.3 Except if this agreement is terminated in accordance with sub-section 6.2, this agreement will renew at the option of the CLIENT for successive additional terms of one (1) year, unless CLIENT notifies the VENDOR of its intent not to allow renewal, in writing, at least ninety (90) days prior to the then upcoming expiry date of the agreement.

6.4 For purposes of clarity, without limitation, the obligations set forth in sections 7 and 8 will survive the termination or expiry of this agreement.

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SECTION 7 – CONFIDENTIALITY, SECURITY AND PUBLIC DISCLOSURE

- 7.1 CLIENT, for itself, its employees, its agents, its mandataries and those for which it is responsible at law, undertakes to maintain the confidentiality of any and all information relating to the software design and programming of _____, the SERVICES and this agreement. However, CLIENT may divulge such information to members of its personnel with a need to know same for the purpose of fulfilling their duties at the CLIENT's. CLIENT undertakes to refrain from copying, reproducing any part or portion of _____ or its documentation, whether in whole or in part, on any media whatsoever. CLIENT and its USERS shall also maintain the confidentiality of the ACCESS CODES and passwords that may be issued relating to _____.
- 7.2 VENDOR, for itself, its employees, its agents, its mandataries and those for which it is responsible at law, undertakes to maintain the confidentiality of any and all information relating to CLIENT's business and that are understood as being confidential and to which the public and the competitors of CLIENT do not generally have access to. VENDOR shall not divulge any DATA recorded or generated by CLIENT by its use of _____, whether in whole or in part. However, CLIENT acknowledges and agrees that VENDOR may divulge such information to members of its personnel with a need to know same for the purpose of fulfilling their duties at VENDOR or to corporations of its group, being understood that to do so VENDOR shall, ensure that the recipient of the information at issue is bound by a confidentiality obligation comparable to that set forth above. Whatever the case may be, VENDOR agrees to abide by and respect any policies and security guidelines that CLIENT may adopt and bring to VENDOR's attention, from time to time during the term of the agreement
- 7.3 VENDOR agrees to keep confidential the terms of this Agreement and not to reveal any such terms without the prior written consent of CLIENT, such consent not to be unreasonably withheld or delayed.
- 7.4 VENDOR will not directly contact the CLIENT's USERS, USER GROUPS or CUSTOMERS. In the event that the VENDOR wishes to communicate directly with the CLIENT's USERS, USER GROUPS or CUSTOMERS, the VENDOR will send such communication and request to the CLIENT who may or may not, at their sole discretion, send such communication.

SECTION 8 – LIMITED WARRANTIES AND LIMITS OF LIABILITY

- 8.1. The VENDOR guarantees that it has the right to license _____ and full power and authority to grant to CLIENT all the rights granted under the Contract. The VENDOR also guarantees that all necessary consents to that grant have been obtained.

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- 8.2. The Parties agree that only the conditions that have been expressly stated in this agreement form part of the Contract. Any conditions accompanying or enclosed with _____, if any, do not form part of the Contract and, therefore, are not part of CLIENT's license and do not affect the rights of the Parties in any way. The VENDOR agrees that in no event will CLIENT or any CUSTOMER or USER be required to enter into any additional license agreement with respect to _____ or any portion of it. The VENDOR acknowledges that any additional license agreement relating to the Licensed Software signed by anyone other than the CLIENT is void and of no effect.
- 8.3. CLIENT is not bound by and does not accept any "shrink-wrap" or "click-wrap" conditions or any other conditions, express or implied, that are contained in or on the software packaging or conditions that may accompany the software in any manner, regardless of any notification to the contrary.
- 8.4. The VENDOR agrees to provide CLIENT with all improvements, updates, upgrades and enhancements to _____ following the acceptance of _____.
- 8.5. In this section, unless provided otherwise in the Contract, "Software Warranty Period" means a period of ninety (90) days from the date on which _____ is accepted in accordance with the conditions of the Contract, except for warranty work and any other work that is scheduled under the Contract to be performed after the start of the Software Warranty Period.
- 8.6. The VENDOR warrants that, during the Software Warranty Period, _____ will operate on the SERVERS in accordance with the SPECIFICATIONS. If _____ fail to meet this warranty at any time during the Software Warranty Period, the VENDOR, if requested by CLIENT, must, as soon as possible, correct, at the VENDOR's expense, any programming errors and defects and make any additions, modifications or adjustments to the Licensed Software that are necessary to keep _____ in operating order, in accordance with the SPECIFICATIONS.
- 8.7. Although the VENDOR must use all reasonable efforts to provide permanent corrections for all software errors, CLIENT acknowledges that certain errors may not be permanently corrected by the VENDOR under the warranty. The VENDOR must provide a software patch or by-pass around the error in all cases where the error will not be permanently corrected. As a minimum, any such software patch or by-pass must cause _____ to meet the functional and performance criteria set out in the SPECIFICATIONS.
- 8.8. The VENDOR warrants that, throughout the Software Warranty Period, the Software Documentation will be free from all defects in materials and will conform with the requirements of the Contract. If CLIENT discovers a defect or non-conformance in any part of the Software Documentation during the Software Warranty Period, the VENDOR must, if requested by CLIENT, as soon as possible, correct, at the VENDOR's expense, the part of the Software Documentation found to be defective or not in conformance with the requirements of the Contract.

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- 8.9. If the VENDOR must perform support services with respect to _____ during the Software Warranty Period, it is agreed that the provisions concerning support will not be interpreted so as to derogate from the warranty provisions set out in this section.
- 8.10. The warranties set out in this section will survive inspection and acceptance of the Work by or on behalf of CLIENT, and do not restrict any other provision of the Contract or any condition, warranty or provision imposed by law.
- 8.11. VENDOR warrants and represents that it holds sufficient licenses, permissions and/or rights regarding the copyrights of _____, so as to legally allow use of _____ in accordance with the terms of this agreement.
- 8.12. If anyone makes a claim against CLIENT or VENDOR concerning intellectual property or copyright infringement or royalties related to the use of _____, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against CLIENT, CLIENT may request that the VENDOR defend CLIENT against the claim. VENDOR agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.
- 8.13. PENALTY. In the event that VENDOR fails to provide the Client the services agreed to upon the delivery date or the services fail to function for forty-eight (48) consecutive hours, a penalty of \$500 per day will be deducted from the fees payable to the Vendor.
- 8.14. **LIABILITY AND INDEMNITY.** The VENDOR will indemnify and hold harmless the CLIENT and its directors, officers, consultants, agents and employees (“The CLIENT Indemnified Parties”) from and against any and all loss of, or damage to, property, or injuries to, or death of, any person or persons and will defend, indemnify and hold harmless The CLIENT Indemnified Parties, or any of them, from any and all claims, damages, suits, costs, expenses, liabilities, fines, obligations, penalties, demands, actions or proceedings of any nature or kind whatsoever (including, without limitation, legal fees and disbursements) of or by anyone whatsoever, resulting from, or arising out of, directly or indirectly:
- a) Any negligent act or omission or wilful misconduct of the VENDOR or its respective directors, officers, servants, subcontractors, employees or any other persons for whom in law the VENDOR is responsible who are acting under the VENDOR’s direction or supervision;
 - b) Any breach of any term, obligation, requirement, covenant or condition of this Agreement on the part of the VENDOR.
 - c) Any breach of the *Personal Information Protection and Electronic Documents Act* on the part of the VENDOR.

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SECTION 9 – RECITALS AND ANCILLARY DOCUMENTS

- 9.1 The recitals and schedules hereto are part of this agreement.
- 9.2 The parties acknowledge and agree that the terms of use and the current policy relating to the protection of personal information are as set forth in Schedule “E”, and that such documents may be amended or updated by CLIENT, from time to time.
- 9.3 In case of conflict or incompatibility between any provisions of this agreement and those of any document attached hereto, the provisions of this agreement will govern.

SECTION 10 – GENERAL PROVISIONS

- 10.1 Should any provisions of this agreement be adjudged illegal or invalid, such illegality or invalidity will not affect the other provisions of this agreement, which will be applied as if the illegal or invalid provision at issue was never part of this agreement.
- 10.2 The titles of the sections of this agreement are inserted purely for reference purposes and will not have any effect on the interpretation of this agreement.
- 10.3 This agreement inures to the benefit of and binds the parties and their respective successors, personal and legal representatives, assigns and beneficiaries.
- 10.4 This agreement sets forth the entire agreement and understanding between the parties as to the subject matter thereof, and no other promise, understanding or undertaking exists, whether by virtue of a verbal or written agreement, except as may be set forth herein, and all other promises, understandings, undertakings or agreement of any sort, as the case may be, are hereby replaced for all intents and purposes.
- 10.5 This agreement will be governed by and interpreted and enforced in accordance with the Laws of the Province of Ontario applicable therein.
- 10.6 All disputes arising out of or in connection with this agreement, or in respect of any legal relationship associated with or derived from this agreement, shall be arbitrated and finally resolved, pursuant to the National Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration shall be the city of Toronto in the Province of Ontario. The language of the arbitration shall be English. Each party shall be responsible for its own costs in relation to any such arbitration proceedings.

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10.7 All notices, requests, instructions, legal proceedings or other instruments to be given, served, or provided hereunder shall be in writing and shall be delivered by overnight courier or mail (postage prepaid) to the address of the receiving party indicated in the header of this agreement. During the term of this agreement, each party may change its address for the purposes hereof by written notice to the other party in accordance with the foregoing.

10.8 This Contract consists of Section 1 through Section 10, and the following Schedules which are either attached or are incorporated by reference:

- Schedule A, Request for Proposal for a Canadian Swimming Registration System Issued <date> by CLIENT as well as VENDOR's Proposal, incorporated by reference;
- Schedule B, Statement of Work, attached;
- Schedule C, incorporated by reference;
- Schedule D, Pricing
- Schedule E, Terms Of Use And Policy Relating To The Protection Of Personal Information

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Sample

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IN WITNESS WHEREOF, THE PARTIES EXECUTED THIS AGREEMENT IN _____,
PROVINCE OF _____, THIS ___ DAY OF _____, 20__ (the "EFFECTIVE
DATE").

VENDOR INC.

Per: _____
Title: _____

CLIENT

Per: _____
Title: _____

Sample

| CLIENT | VENDOR |
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Schedule "A"

1. REQUEST FOR PROPOSAL, FROM SWIMMING CANADA FOR A CANADIAN SWIMMING REGISTRATION SYSTEM ("CSRS"); ISSUED ON <DATE>.

Incorporated by Reference;

2. Proposal from VENDOR in response to RFP;

Incorporated by Reference;

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**Schedule “B”
SERVICES**

VENDOR shall prepare and make available to CLIENT a CSRS and shall provide CSRS implementation, training, support, maintenance and associated services as specified in this Statement of Work, as described in the RFP, and as described in the Proposal, all interpreted consistently with the order of precedence under section 19.1.

USER GROUP shall be comprised of the following organizations:

1. Swimming Canada
2. <insert list of participating PSO's>
3. <insert list of participating Clubs>
- 4.
- 5.
- 6.
- 7.

SPECIFICATION refers to, in order of precedence, the following:

1. Canadian Swimming Registration System - Statement of Requirements;
2. <specification document for _____ as supplied by Vendor>

Access and Use Online of _____:

VENDOR will allow CLIENT, the USER GROUP and its USERS to access and use _____, through the Internet, in accordance with the documentation and the terms and conditions set forth in this agreement.

Initially, CLIENT will be allowed to access the following _____ modules*:

<insert list of modules>

*For each additional _____ module that CLIENT may wish to add to its selection of modules during the term hereof, the parties undertake to jointly prepare and sign a schedule, the content of which will materially reflect the content of Schedule “D” hereof, as the case may be.

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System Availability

VENDOR shall use best efforts to ensure that _____ remains available and functional, as installed and configured by VENDOR on its SERVERS, during an average of at least 99% of the time in any (calendar) trimester, with the exception of any agreed MAINTENANCE PERIOD, the whole with a reasonable average performance (the “**AVAILABILITY STANDARD**”). For the purposes hereof, the period of _____ availability used to calculate reasonable average performance expressly excludes any period during which _____ or the SERVERS are not available or non-functional because of a defect, a failure or an outage attributable to a case of force majeure, the infrastructure, a telecommunication component, the Internet or the services, to any THIRD-PARTY SYSTEM, to any system or infrastructure of a third party provider or partner (for example, Facebook), or the hardware or software (other than _____ itself) that may be used by CLIENT to access the Internet or otherwise use _____.

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| CLIENT | VENDOR |
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Schedule "C"

PRICE, FEES AND PAYMENT TERMS

<insert VENDOR Pricing Proposal>

Sample

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Schedule "D"
ADDITIONAL _____ MODULE ORDER FORM

Client name: _____

Number of this schedule (for example, 1st, 2nd, 3rd, etc.): _____

Name of the module to be activated for this client: _____

Details as to this module: _____

Increase in price relating to the addition of this module (as the case may be):

IN WITNESS WHEREOF, THE PARTIES EXECUTED THIS SCHEDULE IN _____,
PROVINCE OF _____, THIS _____ DAY OF _____, 20__.

VENDOR INC.

Per: _____
Title: _____

CLIENT

Per: _____
Title: _____

| CLIENT | VENDOR |
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Schedule "E"
**TERMS OF USE AND POLICY RELATING TO THE PROTECTION OF PERSONAL
INFORMATION**

Interpretation

In the Contract, unless the context otherwise requires,

"Personal Information" means information about an individual, including the types of information specifically described in the Government of Canada *Privacy Act*, R.S. 1985, c. P-21 and *Personal Information Protection and Electronic Documents Act* (S.C. 2000, c. 5) ;

"Record" means any hard copy document or any data in a machine-readable format containing Personal Information;

Ownership of Personal Information and Records

To perform the Work, the VENDOR will be provided with and/or will be collecting Personal Information from third parties. The VENDOR acknowledges that it has no rights in the Personal Information or the Records and that CLIENT owns the Records. On request, the VENDOR must make all the Personal Information and Records available to CLIENT immediately in a format acceptable to CLIENT.

Use of Personal Information

The VENDOR agrees to create, collect, receive, manage, access, use, retain, and dispose of the Personal Information and the Records only to perform the Work in accordance with the Contract.

Collection of Personal Information

1. If the VENDOR must collect Personal Information from a third party to perform the Work, the VENDOR must only collect Personal Information that is required to perform the Work. The VENDOR must collect the Personal Information from the individual to whom it relates and the VENDOR must inform that individual (at or before the time when it collects the Personal Information) of the following:
 - a. that the Personal Information is being collected on behalf of, and will be provided to, CLIENT;
 - b. the ways the Personal Information will be used;
 - c. that the disclosure of the Personal Information is voluntary or, if there is a legal requirement to disclose the Personal Information, the basis of that legal requirement;

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- d. the consequences, if any, of refusing to provide the information;
 - e. that the individual has a right to access and correct his or her own Personal Information; and
 - f. that the Personal Information will form part of a specific personal information bank (within the meaning of the *Privacy Act*), and also provide the individual with information that CLIENT controls that personal information bank.
2. The VENDOR, its subcontractors, and their respective employees must identify themselves to the individuals from whom they are collecting Personal Information and must provide those individuals with a way to verify that they are authorized to collect the Personal Information under this Contract with CLIENT.
 3. If requested by the CLIENT, the VENDOR must develop a request for consent form to be used when collecting Personal Information, or a script for collecting the Personal Information by telephone. The VENDOR must not begin using a form or script unless the CLIENT first approves it in writing. The VENDOR must also obtain the CLIENT's approval before making any changes to a form or script.
 4. At the time it requests Personal Information from any individual, if the VENDOR doubts that the individual has the capacity to provide consent to the disclosure and use of his or her Personal Information, the VENDOR must ask the CLIENT for instructions.

Maintaining the Accuracy, Privacy and Integrity of Personal Information

The VENDOR must ensure that the Personal Information is as accurate, complete, and up to date as possible. The VENDOR must protect the privacy of the Personal Information. To do so, at a minimum, the VENDOR must:

- a. not use any personal identifiers (e.g., social insurance number) to link multiple databases containing Personal Information;
- b. segregate all Records from the VENDOR's own information and records;
- c. restrict access to the Personal Information and the Records to people who require access to perform the Work (for example, by using passwords or biometric access controls);
- d. provide training to anyone to whom the VENDOR will provide access to the Personal Information regarding the obligation to keep it confidential and use it only to perform the Work. The VENDOR must provide this training before giving an individual access to any

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Personal Information and the VENDOR must keep a record of the training and make it available to the CLIENT if requested;

- e. if requested by the CLIENT, before providing anyone with access to the Personal Information, require anyone to whom the VENDOR provides access to the Personal Information to acknowledge in writing (in a form approved by the CLIENT) their responsibilities to maintain the privacy of the Personal Information;
- f. keep a record of all requests made by an individual to review his or her Personal Information, and any requests to correct errors or omissions in the Personal Information (whether those requests are made directly by an individual or by CLIENT on behalf of an individual);
- g. include a notation on any Record(s) that an individual has requested be corrected if the VENDOR has decided not to make the correction for any reason. Whenever this occurs, the VENDOR must immediately advise the CLIENT of the details of the requested correction and the reasons for the VENDOR's decision not to make it. If directed by the CLIENT to make the correction, the VENDOR must do so;
- h. keep a record of the date and source of the last update to each Record;
- i. maintain an audit log that electronically records all instances of and attempts to access Records stored electronically. The audit log must be in a format that can be reviewed by the VENDOR and CLIENT at any time; and
- j. secure and control access to any hard copy Records.

Safeguarding Personal Information

The VENDOR must safeguard the Personal Information at all times by taking all measures reasonably necessary to secure it and protect its integrity and confidentiality. To do so, at a minimum, the VENDOR must:

- a. store the Personal Information electronically so that a password (or a similar access control mechanism, such as biometric access) is required to access the system or database in which the Personal Information is stored;
- b. ensure that passwords or other access controls are provided only to individuals who require access to the Personal Information to perform the Work;
- c. not outsource the electronic storage of Personal Information to a third party (including an affiliate) unless the CLIENT has first consented in writing;

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- d. safeguard any database or computer system on which the Personal Information is stored from external access using methods that are generally used, from time to time, by prudent public and private sector organizations in CLIENT in order to protect highly secure or sensitive information;
- e. maintain a secure back-up copy of all Records, updated at least weekly;
- f. implement any reasonable security or protection measures requested by CLIENT from time to time; and
- g. notify the CLIENT immediately of any security breaches; for example, any time an unauthorized individual accesses any Personal Information.

Appointment of Privacy Officer

The VENDOR must appoint someone to be its privacy officer and to act as its representative for all matters related to the Personal Information and the Records. The VENDOR must provide that person's name to the CLIENT within ten (10) days of the award of the Contract.

Quarterly Reporting Obligations

Within thirty (30) calendar days of the end of each quarter (January-March; April-June; July-September; October-December), the VENDOR must submit the following to the CLIENT:

- a. a description of any new measures taken by the VENDOR to protect the Personal Information (for example, new software or access controls being used by the VENDOR);
- b. a list of any corrections made to Personal Information at the request of an individual (including the name of the individual, the date of the request, and the correction made);
- c. details of any complaints received from individuals about the way in which their Personal Information is being collected or handled by the VENDOR; and
- d. a complete copy (in an electronic format agreed to by the CLIENT and the VENDOR) of all the Personal Information stored electronically by the VENDOR.

Threat and Risk Assessment

Within ninety (90) calendar days of the award of the Contract and, if the Contract lasts longer than one year, within thirty (30) calendar days of each anniversary date of the Contract, the VENDOR must submit to the CLIENT a threat and risk assessment, which must include:

- a. a copy of the current version of any request for consent form or script being used by the VENDOR to collect Personal Information;

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- b. a list of the types of Personal Information used by the VENDOR in connection with the Work;
- c. a list of all locations where hard copies of Personal Information are stored;
- d. a list of all locations where Personal Information in machine-readable format is stored (for example, the location where any server housing a database including any Personal Information is located), including back-ups;
- e. a list of every person to whom the VENDOR has granted access to the Personal Information or the Records;
- f. a list of all measures being taken by the VENDOR to protect the Personal Information and the Records;
- g. a detailed explanation of any potential or actual threats to the Personal Information or any Record, together with an assessment of the risks created by these threats and the adequacy of existing safeguards to prevent these risks; and
- h. an explanation of any new measures the VENDOR intends to implement to safeguard the Personal Information and the Records.

Audit

CLIENT may audit the VENDOR's compliance with these supplemental general conditions at any time. If requested by the CLIENT, the VENDOR must provide CLIENT (or CLIENT's authorized representative) with access to its premises and to the Personal Information and Records at all reasonable times. If CLIENT identifies any deficiencies during an audit, the VENDOR must immediately correct the deficiencies at its own expense.

Statutory Obligations

1. The VENDOR acknowledges that CLIENT is required to handle the Personal Information and the Records in accordance with the provisions of Canada's *Personal Information Protection and Electronic Documents Act* (S.C. 2000, c. 5), *Privacy Act*, *Access to Information Act*, R.S. 1985, c. A-1, and *Library and Archives of Canada Act*, S.C. 2004, c. 11. The VENDOR agrees to comply with any requirement established by the CLIENT that is reasonably required to ensure that CLIENT meets its obligations under these acts and any other legislation in effect from time to time.

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2. The VENDOR acknowledges that its obligations under the Contract are in addition to any obligations it has under the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, or similar legislation in effect from time to time in any province or territory of Canada. If the VENDOR believes that any obligations in the Contract prevent it from meeting its obligations under any of these laws, the VENDOR must immediately notify the CLIENT of the specific provision of the Contract and the specific obligation under the law with which the VENDOR believes it conflicts.

Disposing of Records and Returning Records to CLIENT

The VENDOR must not dispose of any Record, except as instructed by the CLIENT. On request by the CLIENT, or once the Work involving the Personal Information is complete, the Contract is complete, or the Contract is terminated, whichever of these comes first, the VENDOR must return all Records (including all copies) to the CLIENT.

Legal Requirement to Disclose Personal Information

Before disclosing any of the Personal Information pursuant to any applicable legislation, regulation, or an order of any court, tribunal or administrative body with jurisdiction, the VENDOR must immediately notify the CLIENT, in order to provide the CLIENT with an opportunity to participate in any relevant proceedings.

Complaints

CLIENT and the VENDOR each agree to notify the other immediately if a complaint is received under the [Access to Information Act](#) or the [Privacy Act](#) or other relevant legislation regarding the Personal Information. Each Party agrees to provide any necessary information to the other to assist in responding to the complaint and to inform the other immediately of the outcome of that complaint.

Exception

The obligations set out in these supplemental general conditions do not apply to any Personal Information that is already in the public domain, as long as it did not become part of the public domain as a result of any act or omission of the VENDOR or any of its subcontractors, agents, or representatives, or any of their employees.

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