

**SUNSATIONAL SWIM SCHOOL LLC
INDEPENDENT CONTRACTOR AGREEMENT**

This Independent Contractor Agreement is entered into on the date below, by and between, the undersigned individual (the "Instructor"), and Sunsational Swim School LLC ("Sunsational"). The Instructor hereby agrees to work as an independent contractor for Sunsational on an "as needed" basis. Independent contractors are not entitled to workers' compensation, benefits, or vacation pay.

In consideration of the mutual terms, conditions and covenants hereinafter set forth, the parties acknowledge and agree as follows:

1. Independent Contractor

The Instructor will be working for Sunsational as an independent contractor, not as an employee. As such, Sunsational will not withhold any taxes from the checks it issues to the Instructor. If the Instructor earns more than \$600.00 in one year, he or she will receive a 1099 Form. The Instructor will be responsible for paying his or her own taxes on all monies earned.

2. Booking

When a client inquires with Sunsational about purchasing lessons, Sunsational emails the lesson opportunity to the instructors in the greater metro area where the lessons are to take place. Instructors who are available at the time and location requested by the client must reply to the email stating their availability.. Lessons are booked based upon a number of factors including, but not limited to, the following: response time, experience, availability, proximity to lesson location, and client reviews. The instructor selected is then given the client's contact information and is responsible for scheduling the lesson dates and times with the client. The instructor will then submit the agreed upon schedule to Sunsational via email. Sunsational makes no guarantee that the Instructor who signs this contract will actually be booked to teach lessons.

3. Scheduling

The Instructor is responsible for booking lesson dates and times with the client. Sunsational will not remind the Instructor of when he or she is scheduled to teach. Missing a lesson and excessive tardiness are grounds for termination of this contract.

4. Timeliness

Instructors are to arrive to the lesson location at least 5 minutes prior to the scheduled lesson time. If client cancels their lesson package **due to the instructor's frequent tardiness or unprofessional performance**, the instructor will receive a 50% pay fine and will be removed from Sunsational's contractor list. Instructors are to allow enough travel time to account for traffic and unforeseen delays. Instructors shall call to notify the client if running late.

5. Client Reschedules and Cancellations

If a client wants to cancel or reschedule a lesson, Instructors are to handle the rescheduling accordingly, and notify Sunsational of the cancellation/reschedules. If a client wants to cancel due to weather conditions, they must provide notice to Sunsational three hours prior to the lesson time. Clients may cancel the lesson due to weather if it is cold and rainy, or if there is thunder and lightning, but not because of light summer rain or weather that is too hot. Clients are permitted two lesson reschedules per package. Beyond two lessons, the instructor may consider the cancelled as completed for 25% pay of that lesson, or reschedule the lesson or full pay.

6. Instructor Reschedules

Instructors are not allowed to cancel a lesson for any reason other than an emergency or unexpected illness. If an instructor is unable to teach a lesson due to an emergency or unexpected illness, they must notify Sunsational via email as soon as possible. If an instructor is unable to teach due to a planned vacation or trip, the Instructor must notify Sunsational at least 2 weeks prior so that Sunsational can arrange a substitute, or for the lessons to continue after the Instructor's return. If Instructor is unable to complete a lesson package without a valid reason and proper documentation, or if a client requests that Sunsational switches instructors due to the Instructor's inexcusable cancellations or reschedules, the Instructor will be assessed a 50% pay fine, and will be removed from Sunsational's contractor list.

7. Rate of Pay

The rate of pay for the Independent contractor is listed on the initial booking request email for the swim lesson package and varies depending on factors like location and lesson length. Some swim lesson packages may include an additional completion bonus which will be paid to the independent contractor upon successful completion of the entire lesson package purchased. By requesting a swim lesson package the independent contractor agrees to work for the pay rate listed in the booking email. The pay rate cannot be changed retroactively.

8. Time Keeping and Payment

The Instructor is responsible for keeping records of his or her hours worked on the timesheet provided by Sunsational. Timesheets are to be filled out electronically using the following link:

Swim Instructor timesheet: <http://fs20.formsite.com/sunsationalswimschool/timesheet/index.html>

All timesheet/payment questions should be emailed to timesheets@sunsationalswimschool.com. The Instructor will submit his or her timesheet every 2 weeks on the 1st and 15th of the month with lesson/gig time COMPLETED during that pay period. If the Instructor has to teach extra lessons to comply with the twelve-lesson guarantee, the Instructor will wait to submit their timesheet for final lesson until the child successfully performs the required tasks. After receiving an accurate timesheet, Sunsational will process the timesheet for payment by the 5th or 20th of the month. We offer payment through Dwolla, a money transfer service.

9. Equipment, Facilities and Professional Expenses

The Instructor shall be solely responsible for providing his/her own equipment, tools, and supplies necessary to perform the swim instruction services required by this Agreement. We recommend that instructors have a noodle or barbell, kickboard, small floating to, and rings. It is understood and agreed that the Instructor shall provide his/her own transportation to the locations where the swim instruction services are to be performed, including but not limited to an automobile, the cost of which, as well as the cost of maintaining, shall be the sole and exclusive responsibility of the Instructor. In addition, Instructor understands and agrees that the Client is responsible for Client's own transportation to and from any location where the swim instruction services are performed and, for the protection of the Client including minors who are receiving swim instruction services, the Client shall arrange its own independent transportation to and from the pool location. Tutor further agrees for the protection of Clients and the Instructor not to transport or drive any students they are contracting with through Sunsational Swim School.

10. Dress Code

The Instructor is responsible for arriving at swim lessons dressed functionally and appropriately. Excessive tattoos are to be covered as much as possible and body/facial piercings are to be concealed or removed. Female instructors are to wear a one-piece swimsuit or two-piece with a rash guard on top. Male instructors are to wear a rash guard with swim trunks.

11. Teaching Methods

Although Sunsational does not control the manner and methods used by Instructor, it does require that all instructors follow a positive, student-centered approach to teaching, which means that aggressive and/or negative methods are not tolerated. Inappropriate behavior of any sort will not be tolerated.

12. Twelve Lesson Guarantee

Instructor understands that if a client purchases a package of twelve lessons, the client is entitled to a guarantee that the child being taught will be able to turn around in the water, kick up toward the surface and back toward to edge, and reach to grab onto the edge of the pool, after a gentle drop into the pool. If at the conclusion of the twelfth lesson, the child is unable to complete the required tasks, the Instructor will be obligated to continue teaching the child until the objectives are met, **up to four lessons total**, but for any classes beyond the twelfth, the Instructor will receive a 50% pay fine.

13. Drug and Alcohol Policy

Sunsational absolutely prohibits the illegal use, possession, sale, manufacture or distribution of drugs or alcohol while on any of our clients premises and/or conducting business for Sunsational. Any misuse of substances by Contractor that presents physical or psychological hazard to individuals is also prohibited.

14. Sexual Abuse and Harassment

Sunsational Swim School prohibits sexual abuse and harassment of any kind. Anyone determined to have engaged in abusive or harassing conduct will be immediately terminated and reported to the authorities.

15. Parental Supervision

Instructor understands that under no circumstances will they conduct or continue a swim lesson session if the parent or guardian is not present at the pool location for all students who are minors.

16. Competing Activities

Entering into this agreement does not restrict the Instructor's right to engage in other business activities, including those that would directly compete with Sunsational. However, the Instructor hereby agrees not to solicit Sunsational's employees, independent contractors, or clients on his or her own behalf or on behalf of another individual or entity. If the Instructor is hired to teach swimming lessons outside of Sunsational, he or she will not utilize Sunsational's intellectual property.

17. Liquidated Damages

Due to the difficulty of determining the true damages associated with the loss of clients, personnel, or intellectual property resulting from an improper solicitation or misappropriation, the Instructor hereby agrees to liquidated damages in the amount of \$5,000 for each such instance.

19. Termination

Any violation of this Agreement is grounds for its termination. If this agreement is terminated, the Instructor will be entitled to payment for all classes completed at the time of termination. Upon termination, the Instructor will be ineligible to work for Sunsational in the future.

20. Access to Clients; Assumption of Risks

Sunsational Swim School agrees to provide the Instructor with access to its Clients by communicating to the Instructor Client contact information, if applicable, so that the Instructor may provide swim lesson services in connection with any engagements the Instructor has accepted. The Instructor agrees to use such Client contact information only for purposes of providing services under this Agreement and for no other purpose. The Instructor also agrees not to use or disclose, make available, or transmit to any third party any personal, educational, or other types of personally identifiable information about Clients and/or students whether or not such information is confidential or otherwise protected by law. Sunsational Swim School does not perform any type of background check on its clients and has no means to determine the character or behavior of its Clients and their family members and expects each Instructor to do his/her own assessment of any risks posed to the Instructor by any Client or household member of a Client. The Instructor assumes any and all risks associated with providing swim instruction services in a Client's home and any and all risks associated with providing swim instruction services at any location to the Client. Instructors are not expected or required to enter or remain in the home of any Client or any other location if the Tutor for any reason feels that he/she may be at risk of harm, and should not enter or should immediately depart any premises where the Instructor feels at risk. In consideration of being allowed to contract with us and instruct our clients, instructor agrees to assume all risk of any kind of injury or damage instructor may receive or sustain as a result of contracting with us, including property loss, property damage, personal injury or death. Instructor acknowledges their understanding of this release and hold harmless and agrees and confirms that they knowingly and freely assume all risks, both known and unknown, and hereby release, indemnify, and hold harmless Sunsational Swim School and all assigns, all officers, employees, designees, with respect to any and all injury, disability, or death, or loss or damage to person or property associated with contracting or teaching with Sunsational Swim School, whether arising from the negligence of the releases or otherwise, to the fullest extent permitted by the law.

21. Indemnification

The instructor will indemnify and hold Sunsational Swim School, and all persons/entities associated in any way with any of the foregoing, harmless from any and all fines, suits, proceedings, claims (including but not limited to, any claims of vicarious or other liability), demands, actions, losses, damages, costs, fees (including attorneys' fees and related expenses) and/or any other liability or otherwise of any kind or nature, however and whenever arising, growing out of or otherwise connected with and/or related to any act, error, and/or omission of Instructor or any breach or failure of the Instructor to perform any of the representations, warranties, and agreements contained in this agreement. Sunsational will have the right to control all litigation, including selection and management of counsel, and defend and/or settle any claim, against and/or including any of the indemnified persons or entities, or affecting any of their interests, in such manner as Sunsational deems appropriate, without affecting any rights under this indemnity or otherwise, but, the Instructor may appoint separate independent counsel to represent his or her interests in such suits, proceedings, claims, etc., all at the Instructor's expense.

22. Jurisdiction and Venue

This Agreement is to be construed pursuant to Laws of the State of California. Jurisdiction and venue for any claim arising out of this Agreement shall be made in the State of California, County of San Diego.

23. Severability

If any provision of the Agreement is held to be void, voidable, unlawful or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

24. Instructor's Compliance with the Law

The Instructor warrants that he/she shall provide the agreed upon services not only in accordance with the standards of the swim school industry but also in conformity with any applicable codes of conduct, rules, laws, standards, practices or procedures issued by any applicable governmental authority or by one or more organizations recognized as setting industry standards or best practices.

The Instructor also understands that because he/she may provide swim instruction services to minors and/or such services in the home of Clients with minor children in residence, he/she represents that the Instructor is not currently charged with, has not pleaded guilty to, and has not been convicted of any crime(s) that would render him/her unsuitable to provide swim instruction services to the Clients of Sunsational Swim School including but not limited to: sexual battery under California Penal Code section 243.4; any sex offense against a minor; any felony that requires registration under the California Sex Offenders Registration Act pursuant to California Penal Code section 290; and/or any crime involving violence, robbery, burglary, providing alcohol to minors, or possession or use of illegal drugs. The Instructor understands and agrees that for the protection of the Client, Sunsational Swim, and the Tutor, he/she agrees to authorize Sunsational Swim School to conduct a background check including his/her criminal convictions, if any, upon the Instructor's initial engagement and periodically thereafter, but in no event more frequently than once every year. Tutor also authorizes Sunsational Swim School to access his/her motor vehicle driving records as part of its background check procedures once per year.