

AGREEMENT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

This AGREEMENT is made and entered into effective the 1st day of June, 2017 (herein "Effective Date") through the completion of the performance of the obligations set forth herein, by and between:

BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE ON BEHALF OF LSU ATHLETICS, (herein "LSU" or "University") a public constitutional corporation domiciled in the Parish of East Baton Rouge, State of Louisiana, herein appearing through and represented by Daniel Layzell, its Executive Vice President for Finance and Administration & CFO.

and

ELITE SPORTSWEAR LP. (herein "Dolfin"), a Corporation, with a mailing address at PO Box 190 Mohnnton, PA 19540 herein appearing through and represented by Jean Lewis, its CEO.

who appeared and agreed that:

WITNESSETH

WHEREAS, LSU fields and maintains a varsity swimming & diving team and owns all right, title and interest in and to the names, trademarks, service marks, logo graphics and/or symbols, and any other recognized references to LSU; and

WHEREAS, the University will make the services of its current head varsity swimming & diving coach (hereinafter "Coach") available to Dolfin; and

WHEREAS, Dolfin is in the business of manufacturing and selling Dolfin brand swimming & diving equipment including swimming & diving suits, goggles, caps, and other swim-specific training equipment; and

WHEREAS, Dolfin is desirous of having the Coach and all members of the varsity swimming & diving Team use Dolfin Swimming & Diving Equipment;

NOW, THEREFORE, for and in consideration of the promises and mutual covenants herein contained and for other good and valuable consideration, it is agreed as follows:

1. DEFINITIONS

As used herein, the terms set forth below shall be defined as follows:

- A. "Contract Year" shall mean each consecutive twelve (12) month period from July 1 through June 30 during the Term of this Agreement.
- B. "Products" shall mean Dolfin brand suits, goggles, caps, and other Dolfin swim-specific training equipment.
- C. "Team" shall mean any of all members of the varsity swimming & diving team of LSU during the Term, including without limitation players and coaches.
- D. "Term" shall mean that period commencing July 1, 2017 and concluding June 30, 2020.

2. EXCLUSIVITY

LSU agrees that during the Term, Coach shall use exclusively and shall require coaching staff and members of the Team to use exclusively the Products whenever the Team competes, plays, practices, or participates in connection with, as part of, or in preparation for any event, game, or public appearance to the extent permitted by the Southeastern Conference and the NCAA.

3. MERCHANDISE

For the right and benefits granted to Dolfin pursuant to this Agreement, Dolfin shall provide to LSU the following Products under the terms and conditions as outlined below:

A. Dolfin Product Commitment

- 1. Dolfin shall provide the following product annually for each year of the contract term at no expense to LSU:
 - a. Dolfin will supply \$12,000 (MSRP) worth of men's and women's swimming & diving product to teams per season
 - b. 30 men's championship suits and additional units per qualifier for the NCAA championships each year of the agreement. In order to for additional units to be provided, LSU must provide student-athletes names, sizes and suit colors to Dolfin at least thirty (30) days prior to the event.
 - c. 30 women's championship suits and additional units per qualifier for the NCAA championships each year of the agreement. In order to for additional units to be provided, LSU must provide student-athletes names, sizes and suit colors to Dolfin at least thirty (30) days prior to the event.

The Products listed above are valued at approximately a minimum of \$25,500 (at catalog cost) per Contract Year. The Products provided to LSU by Dolfin in accordance with the terms herein shall not be resold.

C. Other Supplemental Provisions to the Agreement:

1. As approved by athletics administration, Dolfin will be allowed access to LSU coaches and student-athletes when possible to work together on product research and development in accordance with NCAA and conference rules and regulations.
2. If in any Contract Year University requires any additional Products for use by the Swimming & diving Program in quantities greater than those provided hereunder, then University may do so through its normal bidding process, in order to solicit bids, to the extent permitted by the Louisiana Procurement Code, from Dolfin dealers. To the extent permitted by the LSU's Purchasing policies and procedures, University warrants it will not entertain bids for such subsequent orders from non-Dolfin dealers. Dolfin's sale of Products to University shall be at Dolfin's published wholesale cost and subject to availability.

D. Additional Purchased Product

1. LSU and Dolfin agree that the Products provided to LSU pursuant to section 3.A.1 above shall be at no cost to LSU. Any Products ordered during any Contract Year in excess of the amounts stated above shall be sold to LSU at Dolfin's wholesale prices and all such purchases shall be in accordance with LSU's purchasing policies and procedures and all applicable State of Louisiana purchasing policies and procedures.

E. Product Delivery Address

1. Products will be shipped to the following address: LSU Swimming & Diving, North Stadium Drive, Baton Rouge, LA 70803.

6. **INDEMNIFICATION**

Each party hereto agrees to indemnify, defend and hold the other, its officers, directors, agents, and employees harmless from and against any and all losses, liabilities and claims, including reasonable attorney's fees arising out of or resulting from willful act, fault, omission or negligence of the indemnifying party or of its employees, contractors, or agents in performing its obligations under this Agreement provided, however, that neither party hereto shall be liable to the other for any consequential damages arising out of its willful act, fault, omission, or negligence.

7. **DEFAULT**

A. LSU may declare Dolfin in default of this Agreement upon the failure of Dolfin to observe or perform any covenant, condition or agreement upon its part to be observed under this Agreement for a period of fifteen (15) days after receipt of written notice from LSU specifying such failure and requesting that it be remedied. If the default be continuing and Dolfin has not taken any action reasonably anticipated to cure such default, in addition to any other remedies herein or by laws provided, LSU shall have the right, without any further demand or notice, to declare this Agreement terminated and shall have no further obligation to perform any of the obligations of LSU under this

Agreement.

B. Dolfin may declare LSU in default of this Agreement upon the failure of LSU to observe or perform any covenant, condition or agreement upon its part to be observed under this Agreement for a period of fifteen (15) days after receipt of written notice from Dolfin specifying such failure and requesting that it be remedied. If the default be continuing and LSU has not taken action reasonably anticipated to cure such default, in addition to any other remedies herein or by law provided, Dolfin shall have the right, without any further demand or notice, to declare this Agreement terminated and shall have no further obligation to perform any of the obligations of Dolfin under this Agreement.

8. TERMINATION

A. In the event that the Team is placed on probation or given a more senior penalty by the NCAA or any conference with which LSU is affiliated during the Term, then Dolfin shall have the right to terminate this Agreement upon written notice to LSU.

B. In the event that Coach's conduct (whether in or out of competition) shall be deemed by Dolfin to be immoral, criminal, offensive or otherwise of such nature as to bring disrespect to Dolfin as a result of its association with Coach pursuant to this Agreement, Dolfin shall have the right to terminate this Agreement upon written notice to LSU.

C. In the event that Coach is no longer employed as the head varsity Swimming & Diving coach at LSU, this Agreement shall be null and void in its entirety.

9. EXCUSED PERFORMANCE.

In the event that the performance of any terms or provisions of this Agreement (other than the payment of moneys) shall be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state or federal, or because of riots, war, acts of terrorism, public disturbances, unavailability of materials meeting the required standards, strikes, lockouts, differences with workmen, fires, floods, storms, Acts of God, or any other reason whatsoever which is not within the control of the party whose performance is interfered (collectively a "Force Majeure") with and which, by the exercise of reasonable diligence, said party is unable to prevent, either party may suspend performance of the interfered with obligations (other than the payment of moneys) during the period such interference continues, and extend any due date or deadline for performance by the period of such delay. If a Force Majeure continues for more than 90 days, either party may terminate this Agreement in its entirety after the payment of all moneys due as of the date of termination.

10. NOTICES

All notices required, necessary or desired to be given pursuant to this Agreement shall be in writing and shall be effective upon the date when such notice is hand-delivered to the party who is the intended recipient thereof or, if mailed, three (3) days after such notice shall have been deposited, first class mail, postage prepaid, certified, return receipts requested, in the United States mail and addressed as follows:

If to LSU:

Vice President for
Finance and Administration & CFO
Louisiana State University
330 Thomas Boyd Hall
Baton Rouge, LA 70803

Athletic Director
Louisiana State University
Athletic Administration Building, 6th Floor
Baton Rouge, LA 70803

If to Dolfin:

ELITE Swimwear, LP.
Attn: Matt Zimmer
PO Box 190
Mohnton, PA 19540

11. ASSIGNMENT

Dolfin shall not assign or permit an assignment by operation of law of this Agreement or any interest hereunder without the prior written consent of LSU, which consent will not be unreasonably withheld or delayed. If such assignment is requested by Dolfin and LSU provides its written consent to such assignment, all terms and conditions of this Agreement shall be binding and inure to the any assign of Dolfin.

12. REPRESENTATIONS OF AUTHORITY.

By the execution of this Agreement, LSU and Dolfin each represents to the other that it is an entity validly existing, duly constituted and in good standing under the law of the jurisdiction in which it was formed and in which it presently conducts business; and that the person signing this Agreement on its behalf has due authorization to do so.

13. NONDISCRIMINATION, EMPLOYMENT AND WAGES.

Dolfin agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities.

14. CONFIDENTIALITY

To the extent permitted by Louisiana law, the parties agree that they will maintain this Agreement and its terms in confidence except (i) as necessary to perform the parties' obligation under this Agreement, and (ii) as permitted with the written permission of the other party.

15. NO PARTNERSHIP, ETC.

This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between LSU, Coach and Dolfen.

16. HEADINGS

Paragraph headings contained herein are solely for the purpose of aiding in speedy location of subject matter and are not in any sense to be given weight in the construction of this Agreement.

17. COUNTERPARTS

This Agreement may be executed in multiple counterparts each of which shall be declared an original.

18. GOVERNING LAW AND VENUE

This Agreement is a Louisiana contract to be interpreted and enforced under and in accordance with the laws of the State of Louisiana. Venue for any action arising with respect to this Agreement shall be the Nineteenth Judicial Court, Parish of East Baton Rouge, State of Louisiana.

19. RIGHT TO AUDIT

The State Legislative auditor, federal auditors, and internal auditors of the State, or others so designated by the State, shall have the right to audit all accounts directly pertaining to the Agreement for a period of five (5) years after the Agreement expiration or as required by applicable State or Federal Law. Records shall be made available during normal working hours for this purpose.

20. ENTIRE AGREEMENT

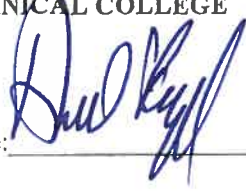
This Agreement contains the complete agreement of the parties with reference to the matters addressed herein and may not be amended except by written agreement of the parties hereto. No waiver of any covenant herein shall be construed as a waiver of the covenant itself or of any subsequent breach thereof. The covenants, agreements, stipulations and conditions contained in this Agreement shall bind and insure to the benefit of Dolfen and LSU and their respective legal representatives, heirs, successors, and assigns.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below their signatures, in the presence of the undersigned competent witnesses, to be effective as of the date set forth above.

**BOARD OF SUPERVISORS OF
LOUISIANA STATE
UNIVERSITY AND
AGRICULTURAL AND
MECHANICAL COLLEGE**

BY:

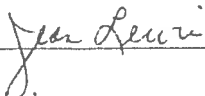
Signature: 

Name: Daniel Layzell
Title: Executive Vice President for
Finance and Administration
& CFO

Date: _____

ELITE SWIMWEAR, LP

BY:

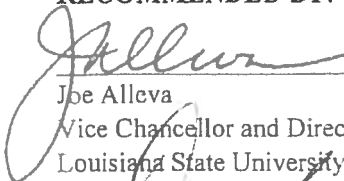
Signature: 

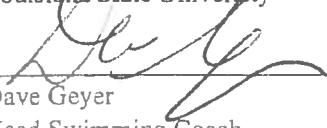
Name: Jean Lewis
Title: CEO

Signature: Steven L. Farnau

Name: Steve Farnau
Title: Director, Team Promotions

RECOMMENDED BY:


Joe Alleva
Vice Chancellor and Director of Athletics
Louisiana State University


Dave Geyer
Head Swimming Coach
Louisiana State University

