



**2008-2009**  
**TERMS AND CONDITIONS FOR USE**  
**OF NATIONAL SWIMMING POOL FOUNDATION (NSPF)**  
**CERTIFICATION MARKS**

These Terms and Conditions apply to anyone who is currently recognized by NSPF as a graduate of the Certified Pool/Spa Operator<sup>®</sup> certification program (“Certified Operator”) and/or NSPF<sup>®</sup> Instructor (“Instructor”) who chooses to use NSPF certification marks:

1. **Grant of Use.** NSPF hereby grants to Certified Operators and Instructors a non-exclusive, limited use of the NSPF Marks under the terms and conditions set forth herein, solely in connection with the promotion of status as a Certified Operator or Instructor.
  
2. **Definition of NSPF Marks.** "NSPF Marks" refers only to the titles "Certified Pool/Spa Operator<sup>®</sup>" and "CPO<sup>®</sup>" and to the CPO<sup>®</sup> logo, a copy of which is portrayed at the top of this page.
  
3. **Term.** The rights and obligations specified herein shall commence as soon as the Certified Operator or Instructor is recognized by NSPF in this capacity, and shall continue for as long as the Certified Operator or Instructor maintains an active status, subject to NSPF's rights of termination as set forth below.
  
4. **Additional Duties and Obligations of Certified Operators and Instructors.** By virtue of using one or more NSPF Marks, the Certified Operator or the Instructor agrees to perform and be bound by the following duties and obligations:
  - (a) **Labeling.** Unless otherwise specified by NSPF, the Certified Operator or the Instructor shall cause to appear the registration identification "®," on all materials prepared by the Certified Operator or Instructor or its employees or agents which

incorporate one or more of the NSPF Marks. Said registration identification shall appear to the right of the NSPF Mark.

(b) Proper Use of Marks. The Certified Operator or Instructor recognizes that NSPF has established a great deal of goodwill through its reputation and the representation of the NSPF Marks. Therefore, the Certified Operator or Instructor shall not use, commercially exploit, permit the use of or permit the commercial exploitation of NSPF Marks in negative advertising, nor in any manner that is contrary to public morals or which has been found to be deceptive or misleading, or which reflects unfavorably on the good name, goodwill, reputation or image of NSPF.

(c) Ownership of NSPF Marks. Nothing herein contained shall be construed as an assignment or grant to the Certified Operator or Instructor of any right, title or interest in or to the NSPF Marks or in or to any copyright, design patent or trademark on the NSPF Marks, beyond the grant of the usage rights on the terms herein specified. The Certified Operator or Instructor hereby agrees that its every use of the NSPF Marks shall inure to the benefit of NSPF and that the Certified Operator or Instructor shall not at any time acquire any rights in the NSPF Marks by virtue of any use he/she may make of such NSPF Marks. The Certified Operator or Instructor agrees not to apply for, seek or obtain trademark, copyright or other registration of the NSPF Marks, and further agrees to notify NSPF of any infringement of NSPF's trademark rights or copyright in the NSPF Marks of which the Certified Operator or Instructor has knowledge and to assist NSPF in any action, legal or otherwise, necessary to protect such trademark rights or copyright, provided that all costs and expenses related to such an action shall be the sole responsibility of NSPF.

(d) Indemnification. The Certified Operator or Instructor shall indemnify and hold NSPF and its officers, directors, members and employees harmless from and against any and all liabilities, losses, claims, damages, costs and expenses (including court costs and reasonable attorneys' fees) incurred by one or more of such parties and arising from or connected with any breach of these Terms and Conditions, or connected with any marketing, promotional, or other activities conducted by the Certified Operator or Instructor using the NSPF Marks, except to the extent attributable to the willful and

wanton act or omission or intentional misconduct of NSPF and its officers, directors, and employees.

5. Termination. NSPF may terminate the Certified Operator or Instructor agreement to use NSPF Marks at any time upon fifteen days' notice, which may be delivered by posting notice on the [www.nspf.org](http://www.nspf.org) web site. The Certified Operator or Instructor agreement shall also terminate effective immediately in the event Certified Operator or Instructor no longer is recognized as a Certified Operator or Instructor. Upon termination of the agreement, the Certified Operator or Instructor shall immediately cease any and all uses of the NSPF Marks and shall cause all existing uses of the NSPF Marks to be canceled, removed or otherwise terminated within seven days after the effective date of termination. The Certified Operator or Instructor shall have 60 days from the date of termination of these Terms and Conditions to dispose of any inventory (i.e. business cards) bearing the NSPF Marks.

6. Objection to Advertising or Promotional Material by NSPF. NSPF shall have the right, at any time, to object to any advertising or promotional materials using the NSPF Marks. If NSPF objects to any advertising or promotional material, the Certified Operator or Instructor agrees to cancel, remove or terminate immediately (within 72 hours) all uses of such objectionable advertising or promotional material.

7. General Provisions.

(a) Relationship of Parties. NSPF and the Certified Operator or Instructor shall at all times be independent contractors with respect to each other, and this agreement shall not constitute either as the agent, partner, or legal representative of the other for any purpose whatsoever.

(b) Waiver. The failure by NSPF to exercise any right, power or option given to it by these Terms and Conditions, or to insist upon strict compliance with the provisions of these Terms and Conditions, shall not constitute a waiver of the provisions of these Terms and Conditions with respect to any other or subsequent breach thereof, nor a waiver by NSPF of its rights at any time thereafter to require exact and strict

compliance with all the provisions hereof. The rights or remedies under these Terms and Conditions are cumulative to any other rights or remedies which may be granted by law.

(c) Severability. Should any provision of these Terms and Conditions be determined to be invalid for any reason, such invalidity shall not affect the validity of any other provisions, which other provisions shall remain in full force and effect as if these Terms and Conditions had been executed with the invalid provision eliminated.

(d) Assignment. The Certified Operator or Instructor may not transfer or assign its usage rights without the prior express written consent of the CEO of NSPF.

(e) Force Majeure. Neither party shall be liable for failure to comply with any of these Terms and Conditions when such failure to comply has been caused by fire, labor dispute, strike, war, terrorism, insurrection, government restrictions, natural disasters, weather, or acts of God beyond the reasonable control of the parties.

(f) Governing Law. These Terms and Conditions shall be governed by the laws of the State of Colorado, and jurisdiction and venue for any action to resolve disputes arising under or based upon these Terms and Conditions shall be initiated and prosecuted exclusively in the State of Colorado, County of El Paso, unless exclusive federal jurisdiction applies, in which case the action shall be initiated and prosecuted exclusively in the U.S. District Court in Denver, Colorado.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Certification No. or Instructor No.

Please complete this document as noted above and submit to:

National Swimming Pool Foundation  
4775 Granby Circle  
Colorado Springs, CO 80919-3131  
719.540.9119 (Telephone) • 719.540.2787 (FAX) • [www.nspf.org](http://www.nspf.org)