

**ACKNOWLEDGMENT AND ASSUMPTION OF RISKS & RELEASE AND INDEMNITY AGREEMENT**  
**ASB Auckland Marathon – Auckland, New Zealand – 1 November 2020**

**INTRODUCTION**

Please read this entire Acknowledgment and Assumption of Risks & Release and Indemnity Agreement (hereafter “Form”) carefully before signing (or, in the case of online acceptance, by electronically checking the box below). Each participant, and if the participant has not attained the legal age of majority, a parent/natural guardian/legal guardian of the minor participant (minors are those under 18 yrs. of age), must sign this Form. The participant or, if applicable, the participant’s parent/natural guardian/legal guardian, is referred to herein as “I” or “my”. I acknowledge that I have legal authority to act on behalf of myself, or if the participant is a minor that I have the legal authority to act for the minor on his/her behalf, and that the child is under 18 years of age. Please note that the Event website (<https://aucklandmarathon.co.nz>) may contain other terms and conditions that apply to the Event. By participating in the Event, I also acknowledge my acceptance of the terms and conditions set out on the Event website and within the Event’s online registration. In consideration of the services of Ironman New Zealand Limited (“Operator”) in allowing me/my child to participate in the Operator competitive event and other activities (hereafter “Event”), **I acknowledge and agree as follows:**

**ACKNOWLEDGMENT AND ASSUMPTION OF RISKS**

This Event and other activities that I (or my child, as applicable) may participate in and/or assist with as a volunteer (whether simply attending, assisting, observing or actively participating) may take place indoors or outdoors and can include but not be limited to: warm-up exercises; competitive running and/or walking, both in practice and in the Event; demo-ing (trying out) gear; participation in clinics, training, demonstrations or other games and activities, attendance at any activities, use of and/or assistance with any equipment, facilities or premises and traveling in planes, vans, buses or other vehicles to and from activities (this Event and other activities collectively referred to in this Form as “activities” or “activity”). Activities may be scheduled or unscheduled, mandatory or optional, whether or not authorized and/or conducted by Operator, structured or unstructured and include free time. **I acknowledge that the inherent and other risks, hazards and dangers (collectively referred to in this Form as “risks”) of these activities can cause injury, damage, death or other loss to me, my child or others. I give permission for my child to participate in and/or assist with all Operator activities and agree to discuss this Form, and specifically, the activities and inherent risks, with my child. The following describes some, but not all of the inherent risks, as applicable to participant’s activities:**

**Risks in any competitive or athletic activity.** Training for, practicing or competing in endurance or other events and associated with running and other conditioning involves frequent and repetitive use of the arms and legs, extreme fitness and endurance, and pushing the limits of the participant’s speed and abilities.

**Risks present in an outdoor environment.** Participants may be subject to: high altitude or mountainous terrain; severe storms or bad weather such as lightning, strong winds, rain, hail, snow and ice; extremely hot or cold weather; stinging, venomous and/or disease carrying animals or insects and other natural or man-made hazards. Hazards may not be marked or visible and weather is always unpredictable.

**Risks involved in decision making and conduct.** These risks include the risk that an Operator staff member, representative, volunteer, contractor, or co-participant may misjudge a participant’s capabilities, health, or physical condition, misjudge some aspect of instruction, medical treatment, weather, terrain, or route location, or, that one of those persons may not warn participant (and/or participant’s legal guardian) about one or more of the inherent risks of these activities.

**Running risks.** These risks include the risk of losing control and falling to the ground, colliding with objects (including parked or moving vehicles and/or bicycles) or people (including co-participants, volunteers, or spectators) on land, tripping or falling down, or encountering other road/trail hazards.

**Personal health and participation risks.** The risk that a participant’s mental, physical or emotional condition (including any use or abuse of alcohol or prescription or non-prescription drugs), whether disclosed or undisclosed, known or unknown, combined with participation in these activities could result in injury, damage, death or other loss. Although Operator may review participant’s medical information, submitted in the registration process, Operator cannot anticipate or eliminate risks or complications posed by a participant’s mental, physical (including fitness level) or emotional condition.

**Risks connected with location.** Activity location may cause or contribute to delays or difficulties in communication, transportation, evacuation or medical care.

**Risks associated with premises.** Ruts, holes, rocks, uneven ground or other conditions may exist in and around the activities.

**Supervision and activities risks.** I understand that neither Operator nor any of their staff, representatives, volunteers, contractors or anyone associated with them will be supervising participant during the activities or at any time. Adult participant agrees he/she is solely responsible for his/her own well-being at all times; or, if applicable, a participant’s legal guardian agrees to take sole responsibility for participant’s supervision before, during and after the Event and other activities, including during free time and at all other times.

**Risks regarding conduct.** The potential that participant, co-participant/s and/or third party/s may act in a negligent or intentional manner.

**Drone risks.** I understand that unmanned aerial vehicles (“UAVs”, also known as “drones”) may be used at the Event for media or other purposes and accept the risk of a collision with, and any damage or injury relating to, any UAV.

**Risk regarding criminal/terrorist activity.** The potential that third party/s may commit criminal acts or acts of terrorism.

**These and other risks may result in participants or an attending parent: falling partway or falling to the ground; being struck; colliding with objects (e.g., a UAV, parked or moving vehicles and/or bicycles) or people; experiencing bicycle or vehicle collision or rollover; reacting to high altitudes, weather conditions or increased exertion; becoming lost or disoriented; suffering gastro-intestinal complications, allergic reactions, renal failure, or muscle necrosis; or experiencing other problems. These and other circumstances may cause heat or cold related illnesses or conditions (including hypothermia, frostbite, hyperthermia, or heat exhaustion/stroke); dehydration; hyponatremia; high altitude sickness; heart or lung complications; broken bones; paralysis or other permanent disability; mental or emotional trauma; concussions; sunburn or other burns or other injury, damage, death or loss -- before, during or even after the participant participates in the Event or other activities.**

**I understand and agree:**

- I (together with my child, as applicable) will review all materials received, accurately complete and agree to the registration information, documents and process, and all rules and policies. I (together with my child) will obey all rules and policies, which include but are not limited to, the rules and conditions detailed in this Form and as detailed on the Event website, Operator’s Competition Rules, the Drug Free Sport NZ Authority Regulations, the competitive and administrative rules of Athletics New Zealand, as each of the foregoing may be amended, from time to time, and all traffic laws. Failure to comply in any way with these matters may lead to me being pulled from the Event and disqualified. I acknowledge that in order to participate in the Event, I may be required to be a current member of, or purchase a one-day license from, an applicable race sanctioning body;
- By submitting this entry, I agree to be bound by and comply with the applicable anti-doping rules including, without limitation, all policies, procedures and/or other rules adopted by Operator (as may be amended from time to time and at any time) and the authority given under those rules. I also agree to be bound by the World Anti-Doping Code and associated International Standards, as issued by the World Anti-Doping Agency (e.g., the International Standard for Therapeutic Use Exemptions, the List of Prohibited Substances and Prohibited Methods, and the International Standard for Testing and Investigations). I acknowledge that I may also be bound by the rules of any applicable national federation, international federation, race sanctioning body, or anti-doping organization with authority over me;
- My (or my child’s, as applicable) final acceptance and participation in the Event is contingent upon Operator’s receipt and review of all required information and forms, including this Form;
- Before participating in any activities, I (and my child, if applicable) may inspect the race course, facilities, equipment, and areas to be used, if my child and I choose. I will immediately advise Operator or an Event official if I believe or become aware that the race course facilities, equipment or areas to be used in the Event are unsafe;
- I am (or my child is, as applicable) fully capable of participating without causing harm to himself, herself, or others. I further agree that participating in these activities requires extreme fitness and endurance, that I, in conjunction with my (or my child’s, if applicable) physician, am responsible for determining whether these activities are appropriate for myself (or my child, as applicable), before participation;
- Operator contracts with individuals or organizations that are independent contractors (not its employees or agents) to provide some of the Event services and to conduct some of the activities participants will engage in. I acknowledge that Operator does not supervise or control these independent contractors and is not legally liable or responsible for their conduct. In addition, activities take place on premises or at facilities not owned or controlled by Operator, and Operator does not oversee or take responsibility for any aspect or condition of these independent facilities or premises;
- I (together with my child, as applicable) will respect the rights, dignity and worth of every individual at the Event including participants, volunteers and spectators. I will at all times act responsibly and maintain high standards in respect to my language and actions and will not discriminate against any person on any grounds but in particular based on sex, sexual orientation, ethnicity, religion, ability or performance;
- If I wish to withdraw from the Event, or transfer my registration to another distance of the Event or to a third party, I must do so myself through my online registration, and the Event specific cancellation and/or transfer policy set out on the Event website will apply;
- The information provided in this Form is not exhaustive, other unknown or unanticipated activities, inherent or other risks and outcomes may exist, and Operator cannot assure my (and my child’s, if applicable) safety or eliminate any of the risks. I understand I can and should consult Operator representatives if I have further questions about the activities or the associated risks;
- **I am (or my child is) voluntarily participating, and I (and my child) acknowledge the inherent risks in connection with the activities. Therefore, I agree that I (and my child, if applicable) assume and accept full responsibility for the participant, for the inherent and other risks (both known and unknown) of the activities, and for any injury, damage, death or other loss suffered by me or my child, resulting from those inherent and other risks, including but not limited to the risk of my, my child’s (if applicable), a co-participant’s, a Released Party’s, a spectator’s, a volunteer’s, and/or a third party’s passive or active negligence or intentional or other misconduct.**

## **RELEASE AND INDEMNITY**

Please read Parts A and B carefully. This Release and Indemnity section contains a surrender of certain legal rights.

**Part A:** To the extent allowed by applicable law, I for myself (and also for my child participant, if applicable), agree as follows:

- To release and not to sue Operator, World Triathlon Corporation ("WTC"), any applicable federation and/or race sanctioning body, Event sponsors, Event organizers, Event promoters, Event producers, race directors, Event officials, Event staff, advertisers, administrators, contractors, vendors, volunteers, Auckland Council (or other area or district Councils or local bodies of whatever nature in which the Event may be staged), New Zealand Police, NZTA and all property owners and state, city, town, county, and other governmental bodies, and/or municipal agencies whose property and/or personnel are used and/or in any way assist in locations where the activities take place, and each of their respective parent, subsidiary and affiliated companies, assignees, licensees, owners, officers, directors, partners, board members, shareholders, members, supervisors, insurers, agents, employees, volunteers, contractors and representatives and all other persons or entities associated or involved with the activities (individually and collectively referred to in this Form as "Released Party" and "Released Parties"), with respect to any and all claims, liabilities, suits or expenses (including attorneys' fees and costs) (collectively referred to in this Form as "claim" or "claim/s") that I may have, for any injury, damage, death, lost property, stolen property, or other loss in any way connected with my (or my child's) enrollment or participation in and/or assistance with the activities, including use of and/or assistance with any equipment, facilities or premises, howsoever caused; negligence, whether passive or active, of the Released Parties; any breach by the Released Parties of statutory duty; and/or losses resulting from the inherent or other risks of the activities. I understand I agree here to waive all claim/s I may have (for myself and my child) against the Released Parties and agree that neither I, nor my estate, heirs, assigns or beneficiaries nor anyone else acting on my behalf, will make a claim against the Released Parties for any loss I may suffer, if I (or my child) suffer injury, damage, death or other loss; and
  - to defend and indemnify ("indemnify" meaning protect by reimbursement or payment) the Released Parties with respect to any and all claim/s brought by or on behalf of me, (my participating child, if applicable) or other family member/s, a co-participant or any other person, for any injury, damage, death, lost and/or stolen property or other loss in any way connected with my, or my child's, enrollment or participation in and/or assistance with the activities, including without limitation use of and/or assistance with any equipment, facilities or premises, howsoever caused; negligence, whether passive or active, of the Released Parties; any breach by the Released Parties of statutory duty; and/or losses resulting from the inherent or other risks of the activities. This Release and Indemnity section Part A includes but is not limited to claim/s for personal injury or wrongful death (including claim/s related to emergency, medical, drug and/or health issues, response, assessment or treatment), property damage, loss of consortium, breach of contract or any other claim, including claim/s resulting from the negligence of Released Parties, whether passive or active.
- Part B:** If the participant is a minor, I (the minor participant's parent) for and on behalf of my participating minor child, agree as follows: I agree here to waive and release, in advance, any claim or cause of action against the Released Parties that would accrue to my minor child for personal injury, including death, and property damage resulting from an inherent risk in the activity.

## **NOTICE TO THE MINOR CHILD'S NATURAL GUARDIAN**

**READ THIS FORM COMPLETELY AND CAREFULLY. YOU ARE AGREEING TO LET YOUR MINOR CHILD ENGAGE IN A POTENTIALLY DANGEROUS ACTIVITY. YOU ARE AGREEING THAT, EVEN IF THE RELEASED PARTIES USE REASONABLE CARE IN PROVIDING THIS ACTIVITY, THERE IS A CHANCE YOUR CHILD MAY BE SERIOUSLY INJURED OR KILLED BY PARTICIPATING IN THIS ACTIVITY BECAUSE THERE ARE CERTAIN DANGERS INHERENT IN THE ACTIVITY WHICH CANNOT BE AVOIDED OR ELIMINATED. BY SIGNING THIS FORM YOU ARE GIVING UP YOUR CHILD'S RIGHT AND YOUR RIGHT TO RECOVER FROM THE RELEASED PARTIES IN A LAWSUIT FOR ANY PERSONAL INJURY, INCLUDING DEATH, TO YOUR CHILD OR ANY PROPERTY DAMAGE THAT RESULTS FROM THE RISKS THAT ARE A NATURAL PART OF THE ACTIVITY. YOU HAVE THE RIGHT TO REFUSE TO SIGN THIS FORM, AND THE RELEASED PARTIES HAVE THE RIGHT TO REFUSE TO LET YOUR CHILD PARTICIPATE IF YOU DO NOT SIGN THIS FORM.**

To the extent allowed by applicable law, I agree to indemnify the Released Parties for any attorneys' fees and costs incurred by them in defending a claim or suit brought by or on behalf of my child (whether that claim or suit is initiated by me, my child or another party) that an arbitrator or court determines is barred under applicable law, or, if the claim is withdrawn or dismissed.

## **OTHER PROVISIONS**

I understand and agree:

- Any dispute or claim/s I may have arising out of, relating to or in connection with this Form, my enrollment or participation in the activities, or any other aspect of my relationship with Operator: 1) will be governed by New Zealand law (without regard to its "conflict of law" rules) and 2) unless settled by direct discussions, will be determined by binding arbitration as the sole and final remedy for all matters in dispute, in accordance with then-applicable arbitration rules as interpreted and governed by an arbitrator knowledgeable in the field and in commercial matters, acceptable to both the participant and Operator (or, failing that, one nominated by AMINZ – Arbitrators' & Mediators' Institute of New Zealand, shall conduct the arbitration). Each such arbitration shall be conducted in accordance with and shall be subject to the provisions of the Arbitration Act 1996 or any enactment passed in amendment or substitution thereof. Required Venue: I agree that any arbitration proceeding, or any suit or other proceeding must be filed, entered into and/or take place only in Auckland, New Zealand.
- If I am signing as the participant's legal guardian, I have the legal authority to act for the participant and on his/her behalf. If my guardian status is challenged or found invalid, I will release, agree to defend and indemnify, and not to sue any of, the Released Parties, to the fullest extent allowed by law and per the provisions of this Form, just as if I were the participant's lawful guardian.
- In regard to my or my child's relationship with Operator, I agree that the contents of this Form will take precedence over any other forms or contracts I or my child may sign (for parties other than Operator) in connection with these activities.
- I am fully responsible for the security of my personal possessions at the Event and Organiser will not be liable for the replacement of any personal possessions. To the extent there are situations in which I provide Operator any of my personal property to hold, there may be times such personal property may not be returned to me. I waive any rights to such property and expressly consent to any and all actions Operator may take with respect to such property, including but not limited to, disposal of such property.
- In no event may I (or anyone else on my behalf) without the prior written consent of Operator, its assignees, or its designees: (a) use any intellectual property of WTC and/or its affiliates, including, but not limited to, the IRONMAN®, 70.3®, Iron Girl®, IRONKIDS®, Velothon®, Cape Epic®, 5150®, and Rock 'n' Roll® marks and names, the "M-Dot" logo, "K-Dot" logo (collectively, the "Operator IP") and/or any words or marks that refer to, or are suggestive of, or confusingly similar to, the Event, any Event logo, Event name, Event location, Event date, or Event race distance (collectively, "Event IP"), or (b) sell, market, distribute, or produce any products, events, merchandise, websites, or services that are IRONMAN®-branded, 70.3®-branded, Event-branded, or branded or marked using (i) any Event logo, (ii) any Event name, (iii) any Event IP, or (iv) any Operator IP (including without limitation the word "IRON" or any foreign translation thereof as a prefix for, or component of, any race, event, trade name, trademark, organization name, club name, or brand of any kind, in each case in any way related to triathlon, triathletes, training, coaching, or any endurance sports).
- The athlete information packets (which contain each athlete's race bib and timing chip) must be picked-up by the registered athlete in person at the scheduled athlete check-in prior to the Event, or as otherwise detailed on the Event website. I hereby acknowledge that photo identification will be required to check-in and pick-up my athlete information packet.
- I authorize Operator staff, representatives, contractors or other medical personnel (including but not limited to any medical director(s) of the Event) to obtain or provide medical care for me/my child, to transport me/my child to a medical facility, and to provide treatment (including but not limited to evacuation, hospitalization, blood transfusions, surgery and medications) they consider necessary for my (or my child's) health. I agree to pay all costs associated with that care and transportation. I agree to the release (to or by Operator and any medical director(s) of the Event, any race sanctioning body, insurance carriers, other health care providers and their staff, representatives or contractors) of any medical information or records necessary for treatment, referral, billing or other purposes.
- Operator reserves the right, in its sole discretion, to dismiss any participant from the activities, to deny or revoke entry of any applicant at any time, to issue special entries, and/or to disqualify any participant from the Event. If I or my child is dismissed or departs for any reason, I agree that I am responsible for all costs of early departure whether for medical reasons, dismissal, personal emergencies or otherwise. If my or my child's Event entry application is denied or revoked, I agree that Operator is not responsible for costs incurred or damages suffered by me, my child, or my family in excess of the amount of the entry fee.
- I acknowledge and agree that Operator, in its sole discretion (whether for safety reasons, legal reasons, or any other reason), may: (a) at any time, with or without notice, change or modify the race course, distances, routes, elevation, ascents, difficulty level, or any other race-course or Event aspect; or (b) delay, modify, or cancel the Event for any reason, including if it believes the conditions are unsafe or otherwise unsuitable for the Event. If the race course or the Event is delayed, modified, or cancelled for any reason, including but not limited to acts of God or the elements (including without limitation, wind, rough water, rain, hail, hurricane, tornado, earthquake), acts of terrorism, fire, threatened or actual strike, labor difficulty, work stoppage, insurrection, war, public disaster, flood, unavoidable casualty, race course conditions, or any other cause beyond the control of Operator, there will be no refund of Operator's entry fee or any other costs incurred in connection with the Event.
- I grant to Operator, its affiliates, designees, assignees, and sponsors the right and permission to photograph, film, record and/or otherwise capture in any media the name, image, voice, written statement, photograph and/or visual likeness of me, my child, and/or my family members (collectively "images"), with right to sublicense, during the activities or otherwise, without compensation, for use for any purpose in any media throughout the world in perpetuity, including but not limited to use in broadcasts, photographs, publications, podcasts, webcasts, motion pictures, brochures, CDs, DVDs, internet websites, social media platforms, television, and/or in any related commercial, informational, educational, advertising, or promotional materials. I understand that all ownership and copyright rights in the images will be owned by Operator, its assignees, or its designees, and I waive any inspection or approval rights. I understand and agree that my (or my child's) name, age, gender and bib number and race results will be available to the public during and after the Event.
- Unless I specify to the contrary, I consent to Operator providing my personal information to (i) the official Event photographer, as designated by Operator, which photographer may contact me via email to alert me when photos from the Event are available on its website, (ii) any charities selected by me during the Event registration process (if any) and/or with Blackbaud Pacific Pty Ltd ABN 73 095 925 170 ("Everyday Hero") and (iii) other third parties for non-marketing related matters. Everyday Hero provides fundraising services to Event participants who wish to raise

funds for charities in connection with the Event. If I register with Everyday Hero to fundraise for charities or if I elect to make a one-off donation to charity, I agree that this will be strictly subject to Everyday Hero's terms and conditions and certain fees and/or other charges will be deducted from funds raised or donations as payment for these services. The Operator has no responsibility to me in connection with such fundraising with Everyday Hero and I release the Operator from all claims whatsoever in connection with such fundraising. By 'opting in' to fundraise as part of my participation I agree to Everyday Hero's Privacy Policy and Fundraising Terms and Conditions available online (<https://everydayhero.com/au/terms>).

- I consent to my name and contact details being included on the Operator Event database and that unless I specify to the contrary, I will be subscribed to various Operator related publications which include a monthly newsletter and other promotional materials about upcoming events. I acknowledge that I am able to opt-out of these services at any time. I agree that if I choose not to be included on the Operator Event database I will still receive newsletters that relate to the Event in which I have registered. I also agree that it is my responsibility to obtain information and Event updates from the Event website, if applicable.
- I consent to my (and my child's, where applicable) personal information being collected, held, used and disclosed by Operator for the administration of the Event and as otherwise set out in the IRONMAN New Zealand Event Privacy Policy, available on the Event website (<https://aucklandmarathon.co.nz/contact/>).
- Operator may assign this Form to other entity/s or individual/s ("assignees") at any time, and any such assignment will grant assignees the full rights and protections accorded in this Form, consistent with Operator's and other Released Parties rights and protections under this Form.
- If I sign this Form both on-line and on-site, I agree that the on-site version of this Form, as that version may be amended from the on-line version, will be binding and control. I also understand that I (and my child) may be required to sign a version of this Form on-site. To the extent Operator permits my Event registration to be transferred to another race event, I acknowledge and agree that this Form will be deemed applicable to such other race, mutatis mutandis.
- This Form is effective in regard to participant's enrollment or participation in the activities from the date signed through the completion of all activities, and this Form will remain in full force and effect following completion of all activities. I also understand that it is not permitted for someone else to compete under my name or for me to compete under someone else's name; doing so may result in my disqualification and lead to Operator banning both parties from competing in the event in future years.
- **This Form is intended to be interpreted and enforced to the fullest extent allowed by law. If any portion of this Form is deemed unlawful or unenforceable, it will not affect the enforceability of the remaining provisions, and those remaining provisions will continue in full force and effect.**

**I, participant and parent/guardian of a minor participant agree:** I have carefully read, understand and agree to voluntarily sign this Form and acknowledge that it shall be effective and legally binding upon me (and if I am participant's legal guardian, participant), and my/participant's, spouse, children and other family members, and my/participant's heirs, executors, representatives, subrogors and estate. *The adult participant (or his/her legal guardian) must complete all information and sign below.*

\_\_\_\_\_  
PARTICIPANT SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME OF PARTICIPANT

\_\_\_\_\_  
PARTICIPANT'S AGE AND BIRTHDATE

\_\_\_\_\_  
SIGNATURE OF PARENT/GUARDIAN OF MINOR PARTICIPANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME OF PARENT/GUARDIAN