

2023 COLORADO OPEN

TERMS AND CONDITIONS

The 2023 Colorado Open (the “Tournament”) is a multi-day FlingGolf tournament that is open to the general public and organized by New Swarm Sports LLC (“New Swarm”) and its affiliate, World League FlingGolf, and other organizers and sponsors (collectively with New Swarm and World League FlingGolf, the “Organizers”). The Tournament is subject to all applicable federal, state and local laws.

1. ELIGIBILITY

The Tournament is open to individuals (each, a “participant”) who are at least eighteen (18) years of age as of the date of Registration. Any exceptions to this limitation may require additional waivers and/or parental consent.

2. ENTRY

ENTRY DEADLINES:

(A) Early Entry – 11:59 p.m. EDT, Thursday, June 16, 2023

(B) Regular Entry – 11:59 pm EDT, Friday, July 7, 2023

Participants must purchase and submit a registration (the “Registration”) on-line at: <http://flinggolf.com/colorado-open>. Entry fee payment with submission of the on-line Registration must be in U.S. funds by methods accepted on such website.

Registrations must be submitted on-line at the location above and received by New Swarm by the applicable entry deadline; provided, however, that the Organizers may, in their sole discretion, allow for registration up to and including the day of the event. Registration by paper submission, telephone, facsimile or email are NOT acceptable unless explicitly agreed to by New Swarm. Participant agrees that the responsibility of ensuring the Registration is received by New Swarm by no later than 11:59 p.m. EDT on the applicable entry deadline, is the participant’s alone, the Registration may be rejected if received by the Organizers after such date and time, and the risk of delay lies solely with participant. The Organizers have no liability with respect to any such delay and the consequences therefrom, including rejection.

Notwithstanding any prior written notice of withdrawal furnished by a participant, if the entry fee was not successfully processed for payment due to a dispute of the charge by the cardholder and/or once a participant begins play in any stage of the Tournament, is disqualified or is removed for conduct unbecoming a competitor or other violations of these terms and conditions, as determined by New Swarm in its sole discretion, the participant will be ineligible to receive a refund.

3. PRIZES

The amount of the Tournament prizes will be determined by the Organizers in their sole discretion and announced prior to the beginning of the Tournament. Certain prizes may be based upon the number of participants that are registered.

All prizes are awarded "AS IS." The Organizers make or offer no warranty or guarantee, either express or implied (including, without limitation, quality, merchantability and fitness for a particular purpose) in connection with this Tournament or any prize. Federal, state, and local taxes on prizes, if any, and any other costs, fees and expenses not listed above as specifically included as part of the prize are the sole responsibility of each participant. ALL TAXES ARE THE SOLE RESPONSIBILITY OF THE WINNING PARTICIPANT. An IRS form 1099 and other tax-related forms and documents may be issued by New Swarm if required by law. If you are a minor in your jurisdiction of residence, then a legal guardian must complete any required documentation on your behalf.

4. TOURNAMENT PLAY

A. RULES

The Tournament play shall be governed by the Official FlingGolf Tournament Rules and Event Formats promulgated by World League FlingGolf, as may be changed, updated or amended from time to time by New Swarm or World League FlingGolf in its sole discretion (collectively, the "Tournament Rules"). The Tournament Rules may be changed, updated or amended up until the beginning of Tournament play. All Tournament participants shall be furnished with any updates or modifications to the Tournament Rules via the email address or other contact information furnished to the participant at the time of registration. All decisions of New Swarm, World League FlingGolf, the Commissioner of World League FlingGolf and any designated Tournament administrators are final.

B. POSTPONEMENTS AND CANCELLATIONS

If in the judgment of the Organizers, or their designee World League FlingGolf, whose decision shall be final, conditions render commencement or continuation of Tournament play inadvisable, play shall be postponed until such time as the Organizers, or their designee, the Commissioner of World League FlingGolf, determines that such weather conditions or other occurrences or conditions have improved sufficiently for play to commence or resume.

In situations involving adverse weather conditions or any other occurrence or condition, the Organizers, or their designee, the Commissioner of World League FlingGolf, may, in its sole discretion, alter the duration of the Tournament to complete play in a timely manner. Any refunds issued to participants as a result of such decision shall be at the sole discretion of New Swarm.

C. APPEARANCE

While on the host facility property during the Tournament participants shall present a neat appearance in both clothing and personal grooming. Golf shorts may be worn. Furthermore, the Organizers reserve the right to require a participant to change or use alternative clothing if, in the Organizers' sole discretion, any logos or branding on such clothing may be considered offensive, conflict with tournament sponsors, or otherwise adversely affect the ability to hold, promote, or distribute any media associated with, the Tournament.

D. CONDUCT:

The participant understands and agrees to the following:

- a) The participant shall conduct themselves in a professional and sportsmanlike manner.
- b) Conduct unbecoming of competitor may be a basis for the rejection of and/or removal of the participant from the Tournament. The Organizers, in their sole discretion, shall determine what is deemed unbecoming conduct.

E. FORMAT AND SCHEDULE OF PLAY:

The Organizers reserve the right to change any aspect of the Tournament Rules, Tournament format or Tournament schedule of play and reserves the right, in its sole discretion, to add participants to the field of any stage. Decisions of the Organizers on all matters related to the Tournament are final and binding.

5. REPRESENTATIONS AND WARRANTIES

Each participant (for the remainder of these terms and conditions, collectively “you”) represent and warrant that:

A. You will not engage in any unsportsmanlike conduct during the Tournament. If the Organizers, World League FlingGolf or any designated Tournament administrator needs to resolve any issue relating to your conduct, then any decision made will be final and not appealable except in the Organizers’, the Commissioner of World League FlingGolf’s or Tournament administrator’s sole discretion. Any offensive remark may, as determined in the Organizers’, the Commissioner of World League FlingGolf’s or Tournament administrator’s sole discretion, result in disqualification.

B. You will not violate or infringe upon the rights of any person or entity, including without limitation copyrights, trademarks or rights of privacy or publicity, and must not act in any way that, in the sole discretion of the Organizers, the Commissioner of World League FlingGolf or any designated Tournament administrator, is defamatory, threatening, inappropriate, indecent, obscene or offensive, pornographic, lewd, sexually explicit, objectionable, unlawful, is in violation of, or is contrary to any applicable laws or regulations. You must not disparage or cast a negative light on any person, entity, or brand, product, or service.

C. You will comply fully with the Tournament Rules and these Terms and conditions and attest that a copy thereof has been furnished or otherwise made available to you, subject to any modifications thereof approved by New Swarm.

D. You will abide by all laws, regulations, ordinances, and rules, and that you will not harm, attempt to harm, or threaten to harm any person (including yourself) or property in relation to or during your participation in the Tournament. If you violate any of the forgoing Representations and Warranties, you may be disqualified from the Tournament at any time in the Organizers’ sole discretion. You agree to reimburse the Organizers and Related Entities in full for any losses, damages, and expenses, including reasonable legal fees that you may sustain from you breaching these Tournament Rules.

6. LICENSES/RELEASES/RIGHT OF PUBLICITY

By participating in the Tournament: (1) you hereby grant to New Swarm a perpetual, irrevocable, non-exclusive, worldwide, royalty-free, sublicensable, freely assignable license to reproduce your registration and any images, descriptions, audio, or video of your participation in the Tournament and to otherwise use, exploit, copy, modify, adapt, edit, publish and display your registration and any images, descriptions, audio, or video of your participation in the Tournament or any portion thereof (i.e., at all times on-site during the Tournament and during any Tournament-related activities) in any form, manner, venue, media or technology now known or later developed for any and all purposes, including, without limitation, television, radio, motion picture, photographic, electronic and internet interactive applications, for purposes of trade, advertising, and promotion as New Swarm or and its licensees or assignees determine, without further compensation, notification, or permission; (2) you hereby waive any moral rights you may have in any images, descriptions, audio, or video of your participation in the Tournament or any portion thereof in favor of New Swarm; and (3) you also grant to New Swarm the worldwide, perpetual, irrevocable, fully sub-licensable, and freely transferable right, but not the obligation, to use any and all names, identities, titles, likenesses, distinctive appearances, physical likenesses, images, portraits, pictures, photographs (whether still or moving), screen personas, voices, vocal styles, statements, gestures, mannerisms, personalities, performance characteristics, biographical data, signatures, and any other indicia or imitations of identity or likeness listed, provided, referenced, or otherwise contained in your registration or your Tournament participation for purposes of advertising, promotion and trade, in any format, medium, or technology now known or later developed without further notice, approval, or compensation, unless prohibited by law. At New Swarm's request and in its sole discretion and to further document the foregoing, you agree to execute an assignment and release transferring all rights and ownership, if any, any images, descriptions, audio, or video of your participation in the Tournament or any portion thereof to New Swarm, the form of such assignment to be determined by New Swarm in its sole discretion.

7. PUBLICITY & MARKETING:

Your participation in the Tournament constitutes permission, but not the obligation, for New Swarm to use your name, identity, title, likeness, distinctive appearance, physical likeness, image, portrait, picture, photograph (whether still or moving), screen persona, voice, vocal style, statements, gesture, mannerism, personality, performance characteristic, biographical data, signature, and any other indicia or imitation of identity or likeness for purposes of promotion, advertising and trade, in any medium, without further notice, approval, or compensation, unless prohibited by law. Submission of contact information in connection with this Tournament (whether or not required), including, without limitation, mailing address, phone number, email address, or any other identifying information, during registration constitutes permission for New Swarm to use entrant's personal information for purposes of administration of the Tournament. Entrants also may opt-in to be added to New Swarm customer database and to permit New Swarm to contact entrant in the future for promotional and other reasons. You may opt-out of receiving such communications as provided within any such marketing materials (e.g., using the "Unsubscribe" feature provided in the footer of New Swarm's e-mails). The information you provide will only be used in accordance with New Swarm's Privacy Policy.

8. NO LIABILITY & INDEMNIFICATION:

By entering this Tournament, you agree to release, discharge and hold the Organizers and their respective members, officers, employees, agents and assigns, including without limitation World League FlingGolf and its Commissioner, any designated Tournament administrator and any other sponsor (collectively, the "Released Parties") from any claims, losses, and damages arising out of, or relating to, your participation in this Tournament or any Tournament-related activities and the acceptance and use of any prize awarded hereunder (including, without limitation, any misrepresentation made by the participant in connection with the Tournament; any non-compliance by the participant with the Tournament Rules or these Terms and Conditions; claims brought by persons or entities other than the parties to these Terms and Conditions arising from or related to the participant's involvement with the Tournament; acceptance, possession, misuse or use of any prize or participation in any Tournament-related activity or participation in this Tournament; any malfunction, error or other problem arising in connection with the collection, processing, or retention of registration information; or any typographical or other error in the printing, offering or announcement of any prize or winner). The foregoing includes, without limitation, any claim for personal injury, property loss or damage, or death arising in any way in connection with the Tournament.

9. GOVERNING LAW/JURISDICTION:

All issues and questions concerning the construction, validity, interpretation and enforceability of these Terms and Conditions or the rights and obligations of participants or the Organizers in connection with the Tournament shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of any other laws, and all entrants shall be deemed to have agreed to submit to the exclusive jurisdiction of the provincial or federal courts (as applicable), situated in Massachusetts. Claims may not be resolved through any form of class action.

10. GENERAL RULES AND REGULATIONS:

By submission of this entry and registration, the participant agrees to the following:

- A. The participant agrees to the Tournament Rules and Terms and Conditions included herein and the participant agrees that entry is subject to rejection at any time.
- B. THE PARTICIPANT AGREES THAT CERTAIN RISKS ARE INHERENT TO THE GAME OF FLINGGOLF AND ACCEPTS PERSONAL AND SOLE LIABILITY FOR ALL SUCH RISKS.
- C. The participant agrees that the Registration must be completed before the participant will be entered into the Tournament.
- D. If any provision(s) of these Terms and Conditions are held to be invalid or unenforceable, all remaining provisions hereof will remain in full force and effect.
- E. In the event of any discrepancy or inconsistency between these Terms and Conditions (including the Tournament Rules) and disclosures or other statements contained in any Tournament-related materials, including but not limited to the registration form, television, print or online

advertising, these Terms and Conditions (including the Tournament Rules) shall prevail, govern and control.

- F. The participant agrees to comply with any and all rules and regulations further promulgated by the Organizers, including, without limitation, any applicable COVID-19 health and safety protocols.
- G. For all inquiries, please contact New Swarm or the Commissioner of World League FlingGolf at events@flinggolf.com, by phone at (858)-433-5464 or by mail at New Swarm Sports LLC, 11 Chestnut St., Amesbury, MA 01913.