

To'a Studio Terms & Conditions

These Terms and Conditions along with the online application form containing details of your application to join Toa Studios ("**Application Form**") once you have been registered as a member, govern your membership of Toa Studios and your use of that membership including the services provided by us to you ("**Membership**"). Any variation to these Terms and Conditions must be in writing and signed by our authorized officer.

THIS IS AN IMPORTANT DOCUMENT – PLEASE ENSURE THAT YOU READ IT CAREFULLY.

Parties

This agreement is made between **To'a Studio Pty Ltd (ABN 98 613 289 713)** ("**we**", "**us**", "**our**" or "**Toa**") and the person identified as the applicant in the Application Form ("**Applicant**" or "**you**"). You represent that:

- a) you are at least 18 years old, or
- b) if are aged under 18 years you are at least 16 years old and have obtained the consent of your parent or legal guardian and that your parent or guardian has signed and submitted the parental consent form which may be downloaded from www.toa.studio.

Toa Rules

You must ensure that you read, understand, and abide by the Rules ("**Rules**") which are notified to you through signage, handouts, or our website www.toa.studio (the "**Website**").

Entire Agreement

The Application Form, these Terms and Conditions and the Rules form the entire agreement between the parties (the "**Agreement**") in relation to its subject matter and any previous representations or documents whether provided by Toa or its agents or employees are excluded from this agreement.

Start date

Your Membership commences on the date of your registration as a member ("**Membership Start Date**") and is ongoing unless terminated in accordance with this Agreement. Before you can be registered you must complete the pre-registration questionnaire before attending any class.

Premises

We conduct studio classes at designated premises ("**Premises**") the addresses of which are listed on the Website. We may change the address of a Premises from time to time and may give you notice via email, social media or SMS, as well as the Website.

Membership card

Membership cards are not transferable and must be kept up to date to gain entry. Photo identification is necessary with Toa Membership purchase and an ID photo will be taken for the Toa database records only. If you allow your Membership card to be used by another person for the purpose of obtaining admission, this amounts to the repudiation of the Agreement and we may terminate the agreement with you paying all monies due under this agreement. Your membership card will be issued and available for you to access at any time and keep up to date.

Dress code

Fully enclosed, clean shoes must be worn in all public (non-studio) areas of the premises. You are required to wear a Toa or Gi t-shirt and suit at all times in the studio.

Towels and Cleanliness

Towels must be used when participating in classes to maintain hygiene and safety standards. All equipment used (including bags and mats) must be wiped down with a spray bottle and paper towel after use.

Personal items

Lockers are available and located in Premises. Please look after your personal items. Toa and/or Premises personnel are not responsible for any loss of personal property. All belongings must be removed from the lockers prior to closing time of the studios or they may be removed and Toa takes no responsibility for these items.

Lost property

We highly recommend that you use lockers for your belongings. Toa does not take responsibility for loss, damage, or theft of your belongings. Any items of lost property will be held for one month and then donated to charity.

Membership packages

Membership package periods

- a) Monthly 2x per week
- b) Monthly 3x per week
- c) Monthly unlimited per week
- d) 3 month pre-paid package
- e) Ten lesson card
- f) 2 free classes in a week and enrol for 3 months

The fees for each package ("**Fees**") are as displayed at www.toa.studio/pricelist

Students may receive a 20% discount on production of their student ID card or other proof of student status acceptable to us.

Ten lesson card packages expire after 3 months after issue.

Fees must be paid for in advance and are not refundable, cancellable or transferable to any other person's Membership. Memberships may be cancelled at any time in accordance with this Agreement.

Renewals

Membership packages (other than the Ten lesson card package) will be automatically renewed unless you give 30 days' notice in writing that you will be not renewing. The reason for this is so that classes may be planned and scheduled in advance.

Membership renewal Fees are payable at least 7 days prior to the end of the then current Membership period. You may change your Membership package to date from the end of the then current Membership, by advising us in writing and paying for the new package in which case the 30 day notice period does not apply. Mid-package changes are not permitted.

Cooling Off Period

If you apply for a Membership package with a minimum Membership period of 3 months or more, you have a period of 7 days after submitting your application ("**Cooling Off Period**") during which you may cancel your application or Membership. Notice must be given in writing prior to the end of the Cooling Off Period. Refunds will be made by EFT or Cheque. No Cash refunds will be issued.

If you terminate your Agreement after the Cooling Off Period, different conditions will apply. The following termination clauses outline your right to terminate the Agreement.

Payment of Fees

All Membership Fees may be recovered from your nominated credit / debit account (as provided from time to time). Any bank Fees charged to us because of a rejection when collecting your due Membership Fees may be charged directly to you by us. If a Membership fee payment remains outstanding, you agree that, unless we are in breach of our obligations under the Agreement, we may debit the nominated credit / debit account for the total amount due without notice to you.

- a) Fees for monthly and 3 monthly packages are payable on the first day of each calendar month ("**Payment Date**").
- b) If the Membership Start Date is other than a Payment Date, a pro rata charge for Membership will be made at the time the Membership application is registered. This charge is based on the number of days between the Membership Start Date and the next Payment Date.
- c) Amex and Diners club transactions attract a \$2.00 processing fee. All other credit card transactions attract a \$1.00 processing fee. Direct debit attracts no fee and is preferred.
- d) If you fail to pay your Fees by the due date, Toa reserves the right to refuse entry to any Toa facilities until the outstanding payment is received.
- e) If for any reason payment of Fees is declined by your credit card/bank account, an administrative charge of \$10 per declined payment will be payable.

Termination

You may terminate the Agreement at any time by giving 30 days' notice in writing. In all cases termination takes effect from the end of the Membership package period in which the 30th day of the notice period falls. Failure to pay Membership Fees for the next Membership package period within 7 days after the due date will be deemed to be a notice of termination, and termination will take effect from the end of the next calendar month.

We may terminate the Agreement for convenience at any time on giving 7 days' notice. We will refund the proportion of any pre-paid Fees but unused as at the effective date of termination.

Termination when changes made to Terms and Conditions

You are entitled to terminate the Agreement with immediate effect at any time by providing us with written notice if higher Membership Fees applicable to your Membership are introduced or you do not continue to use Toa after an amendment to these Terms and Conditions as contemplated in clause 0 .

Right of Exclusion

We can refuse entry to Toa studio, cancel your Membership and / or terminate the Agreement without warning or notice for inappropriate, threatening or harassing behaviour, damaging equipment or facilities, or use of illegal or performance enhancing drugs in Toa studio. No refunds will be issued.

Membership Fee increase

We reserve the right to increase the Membership Fees to be charged. If we increase the Membership Fees we will provide at least 30 days prior notice of the increase by post or email to the addresses provided by you in the Application for Membership. Following such notice, you authorize us to increase any direct debits to your credit card or bank account which you have authorized upon joining. We will not use this right to vary the terms on any special offer which applies to you.

Outstanding payments

If Fees are outstanding more than 14 days, interest will be payable at the RBA cash target rate + 6% per annum, on the amount outstanding from the due date to the date paid in full. If Fees are outstanding more than 28 days, Toa may refer the overdue amount/s to an external collections agency for collection. In that event you will be liable to pay for all outstanding monies due and reasonably incurred debt recovery expenses (including the Credit Agency minimum fee) and legal costs.

Refunds

Except as provided in this Agreement all monies paid by you are non-refundable.

Risk Disclosure and Acknowledgement

- a) You acknowledge that martial arts training ("**Training**"), the use of martial arts weapons and other studio equipment ("**Equipment**") and the use of that Training involves inherent risks.

- b) You are aware that your participation in the classes and programs conducted by Toa may involve strenuous activity and risk (special or otherwise) associated with such use and participation
- c) It is a condition of your Membership and participation in Training and use of Equipment lessons that you accept all risks associated with such Training and use and provide the Release and Indemnity at clause 0).
- d) To mitigate risk and ensure that you correctly use Equipment, you are required to undertake instruction and comply with all directions by Toa in such use.
- e) You understand that Toa does not manufacture Equipment, but purchases/leases Equipment. You understand that Toa is providing recreational services and is not liable for defective products.
- f) You acknowledge that you do not rely on any statement made to you about the benefits of Training, or the safety of using the Equipment.
- g) You acknowledge that you have asked and had answered to your satisfaction all questions you require to be answered and/or have all information you require before undertaking Training and using the Equipment.
- h) You acknowledge that you have been advised to seek medical advice if you suffer from any medical condition that may affect or be affected by Training and/or use of Equipment.

Release and Indemnity

- a) In consideration for you or any Minor for whom you are responsible or any person upon whom you are dependent undertaking the Training or using the Equipment, you hereby release Toa and its directors, employees, contractors and agents (the “**Releasees**”) from any and all liability, causes of action, claims, demands, actions and suits in respect of any loss, damage, personal injury (whether or not leading to permanent incapacity or death), costs and expenses (including medical and legal costs) suffered by you or such other person, as a result of or in connection with you or such other person undertaking the Training and/or using the Equipment or the Training, however caused, including but not limited to the negligent acts or omissions of Releasees or any other person using the Premises. Please refer to the *Civil Liability Act 2002 (NSW)* for more information. (www.legislation.nsw.gov.au).
- b) You further hereby agree to indemnify and hold harmless the Releasees from and against any and all liability, causes of action, claims, demands, actions and suits that they may incur or suffer in respect of any loss, damage, personal injury (whether or not leading to permanent incapacity or death), costs and expenses (including medical and legal costs) suffered by you or any other person, as a result of or in connection with you or such Minor undertaking Training and/or using the Equipment or Training.
- c) You provide this release and indemnity in part consideration for the Training and use of the Equipment by or on behalf of the Releasees with the intent that it applies to all future Training and uses of the Training and/or Equipment by you.

Responsibility for Damage

You are solely responsible for any damage which you may cause to Toa, its facilities, services, products or equipment, if such damage is caused by your wilful act and / or negligence.

Disclosure of your Physical Condition

Provision of a safe and effective martial arts program is dependent upon accurate health and fitness profiling. It is your responsibility to seek medical clearance prior to commencing any martial arts program. You agree to disclose to us all relevant personal health and fitness information both prior to and during engagement in any program, service or facility we provide to you, as part of your Membership. This is inclusive of any health risk assessment, initial and periodic fitness assessment and relevant information or recommendations provided by your medical practitioner. You further warrant and represent that you will not use Toa or any of our facilities, services or products whilst you are suffering from any infections or contagious illness, disease or other ailment or whilst you are suffering from any physical ailment such as open cuts, or sores, or minor infections where there is a risk, however small, to other members and guests. We reserve the right to refuse entry or terminate Memberships based on health reasons for the safety of our members.

Change of Details

You must keep us promptly informed of any changes of address, phone contact numbers, email address, bank account and credit card details for payment and any other personal information that is relevant to your Membership with us.

Contractors

Contractors and franchisees may provide services at Toa. Fees for such services are paid directly to the Contractors and franchisees. We take no responsibility for the Fees paid to these contractors and franchisees. You hereby agree not to hold us liable and you agree to indemnify us and keep us indemnified for any claims suffered by you as a result of negligence by a contractor or franchisee.

Interruption of Services

As a result of repair, maintenance, public holiday, or special occasions, Toa may be required to restrict the use or temporarily close or halt Toa activity from time to time. There will be no reduction, suspension, abatement, or apportionment of Membership Fees or other charges during such time when the above-mentioned occurs. Toa hours of operation may be modified from time to time without prior notice to Member. Toa reserves the right to change the facility from time to time, to eliminate or add facilities and services, and to change the type or quantity of equipment and services. Toa may from time to time reserve the use of its facilities for special events, competitions and private functions.

Relocation

- a) You acknowledge that Toa reserves the right to relocate Premises.
- b) You expressly acknowledge that Toa reserves the right to change the nature, format, presentation or number of services and facilities as deemed suitable. As much warning of any changes as is practicable, will be provided for your information at the studio, and / or on the website.

Assignment

You must not assign any rights or benefits under these Terms and Conditions unless you have obtained our prior written consent. We may assign or transfer any rights or benefits under these Terms and Conditions at any time without notice to you. However, we will remain liable to meet our obligations to you under these Terms and Conditions and the Agreement.

Intellectual Property

These Terms and Conditions do not give you any intellectual property rights in Toa, or in our facilities, services or products. All intellectual property rights in and relating to our classes, programs, works, materials, and brand vest and remain in Toa.

Privacy Statement and Acknowledgement

During the process of entering into the Agreement with you and during the Term of the agreement we will obtain access to certain types of your personal information, such as information relating to your health and financial position. We will only use, disclose or deal with such information in accordance with our Privacy Policy. A full copy of our Privacy Policy is shown on our website (www.toa.studio).

Governing Law

These Terms and Conditions are governed by, and you agree to submit to the courts and tribunals of New South Wales.

Variation

We may, subject to your rights in clause 0, alter these Terms and Conditions or the Rules at any time upon 30 days written notice. All use of Toa and its facilities, services and products after the date specified in such notice will be subject to such altered Terms and Conditions or Rules. If you continue to use Toa and its facilities, services and products after the date such alterations become effective, or otherwise demonstrate by your conduct that you agree to the altered Terms and Conditions or Rules, you will be deemed to have agreed to the altered Terms and Conditions or Rules.

Severability

If any part of this Agreement is or becomes illegal, void or unenforceable, this does not invalidate the rest of this Agreement.

Service of Notices

Any notice, approval, consent or other communication under the Agreement must be in writing, and delivered personally or by prepaid registered post, facsimile, or email to a party at the address of that party indicated in the Agreement, or to another address as that party may from time to time notify to the other for the purposes of this clause.

Proof of Service

Proof of posting by prepaid registered post or of dispatch of facsimile or email will be proof of receipt,

- a) in the case of a letter to an address within the city of dispatch, on the third day after posting, otherwise on the fifth day after posting;
- b) in the case of facsimile, when a satisfactory transmission report is received by the sender;
- c) in the case of an email, provided the recipient acknowledges receipt by return email or other recorded means, at the time such email was received by the recipient as revealed by the recipient's inbox, or otherwise 12 hours after sending unless the sender receives a notice that the email was not delivered;

provided always that that if that time is not between 9am to 5pm on a business day in the place where the recipient is located, service will be deemed to have occurred at 9am on the next business day in that place.

General

- a) You agree not to disparage Toa or do anything that brings it into disrepute in any way.
- b) You authorise photographs to be taken of you during Training and exercises and for Toa to use such photos in material promoting the studio.
- c) You are responsible for arranging your own insurance against personal injury, which is recommended.
- d) You must be courteous to all members and instructors at all times and must not harass anyone.
- e) You agree to join the Toa WhatsApp group for communications.
- f) Unless you expressly refuse, you will be added to Toa social media channels.

These Terms and Conditions form part of your Membership Agreement.

By submitting your Application Form you have agreed to these Terms and Conditions.

Applicant Signature: _____

Applicant Full Name: _____

Date of Application: _____

Witness Signature: _____

Witness Full Name: _____