

# Tai Chi Chuan Academy of Modesto

## WAIVER AND RELEASE OF LIABILITY

Name of Member: \_\_\_\_\_

In consideration for allowing the above-referenced Member and Adult Family Member(s) to use the Tai Chi Chuan Academy of Modesto (hereinafter, "TCCAM") facilities, this Waiver and Release of Liability (hereinafter, "Agreement") is entered into between the above-referenced Member, Adult Family Members, and TCCAM. The Member and all adults authorized to use TCCAM facilities pursuant to the Membership Agreement are referred to herein as "Member."

1. Assumption Of Risks. Physical activity, by its very nature, carries with it certain inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. The Member appreciates the types of injuries that may occur as a result of activities made possible by TCCAM. The Member hereby knowingly assumes all such risks.
2. Disclaimer by TCCAM. In addition, TCCAM disclaims any and all responsibility for any injury, death, or loss or damage of personal property that the Member may suffer while participating in TCCAM provided activities, while using TCCAM facilities, or while being on TCCAM property, including but not limited to parking in or using the TCCAM parking lot.
3. Release and Indemnification. The Member hereby releases and agrees to indemnify, defend, and hold TCCAM and its agents, assigns, insurers, successors, employees, volunteers, independent contractors, shareholders, directors and officers harmless from any and all actions, claims, demands, personal injury, death, property damage, property loss (including theft) and court costs and attorneys' fees arising from the Member entering onto and using the facilities and services of TCCAM including, but not limited to, parking in or using the TCCAM parking lot, and whether or not the claim arises from the active or passive negligence of TCCAM or its owners, directors, officers or employees.
4. Waiver of Civil Code Section 1542. Section 1542 of the California Code of Civil Code reads as follows: *"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."* The Member hereby agrees that Section 1542 of the California Code of Civil Code is **expressly waived**. The Member hereby waives and releases all future claims against TCCAM for injury to the Member, whether such claims are currently known or unknown to the Member.
5. Right to Refuse Service. TCCAM reserves the right to refuse admittance and services to any Member that appears infected with a contagious disease, or is unable to control his or her behavior in a polite or safe manner, or is unsanitary.
6. Attorney's Fees. The prevailing party in any action to enforce this Agreement shall be entitled to recover from the non-prevailing party any and all of the costs, expenses and fees incurred by the prevailing party in connection with the lawsuit, including reasonable attorneys' and consultants' fees and costs for investigating a claim.
7. Binding on Successors. This Agreement and its terms shall inure to the benefit of and be binding upon each of the parties and their respective agents, successors, assigns, heirs, and representatives.
8. Severability. The parties agree that the release contained in this Agreement is intended to be as broad and inclusive as is permitted by the laws of the State of California, and that if any provision of this Agreement is determined by any court to be invalid for any reason, then the invalid provision shall be rewritten to make the invalid provision enforceable and to match the intent of the invalid provision as closely as possible.
9. Venue and Applicable Law. The parties agree that if legal action is brought, it must be brought in the State of California, County of Stanislaus, and the laws of the State of California shall apply in all aspects.
10. Integration and Modification. This Agreement represents the entire agreement of the parties and any amendment or modification of this Agreement must be in writing signed by the party to be charged.
11. Term of Agreement. This Agreement shall be valid for each Member and Adult Family Member who signs below, regardless of whether any other Adult Family Member(s) designated above have also signed. This Agreement shall remain in full force and effect during the entire period of time Member holds a membership with TCCAM. Even if Member's membership with TCCAM ceases, this Agreement shall govern the relationship of the parties for any incident occurring during the period that this Agreement was in force.

Member: \_\_\_\_\_

Date: \_\_\_\_\_