

PARTICIPATION WAIVER

Participation in recreational activities at Upstate Studios (**Activities**) is entirely voluntary, but to participate you must read, understand and agree to this form.

RISK WARNING: I acknowledge and agree that there are risks participating in the Activities which may result in personal injury to myself. The risks extend to physical or mental injury (including aggravation, acceleration or recurrence of any physical or mental injury), illness or death, as a result of, but not limited to:

- the effects of high heat and humidity;
- slipping or tripping on floor surfaces;
- falls;
- dehydration;
- over exertion;
- the acts and/or omissions (including negligent ones) of other participants participating in the Activities;
- failure to follow instructions in relation to participation in the Activities; and
- all other such risks being known and appreciated by me.

DECLARATION, WAIVER AND RELEASE: In consideration of, and as a condition of acceptance of my participation in one or more of the Activities, I declare and agree that:

1. I am physically able to participate in the Activities I choose to participate in. I am not aware of any medical condition or any other reason why I should not participate in the Activities I choose to participate in and that I have not been advised by a qualified medical practitioner not to participate. If I become aware of any medical condition during participation, which is of risk to my health, I will withdraw from or discontinue my participation.
2. I will follow all instructions provided in connection with my participation in the Activities, including proper use of equipment such as the reformer and weights, and will only use settings and weights suitable for my ability.
3. My participation is at my own risk and I acknowledge the above risk warning together with the Warning Under the Australian Consumer Law and Fair Trading Act 2012 (Vic) below.
4. To the fullest extent permitted by law, I release all those entities and persons associated with the operation of the Activities, including Upstate Balaclava Pty Ltd (ABN 84 627 778 590), together with their respective employees, agents, contractors, representatives and officers (the '**Suppliers**'), from and against any claims of any kind (whether at tort, contract or statute) including personal injury, death or property damage, however caused (including negligence) arising out of or in connection with my participation in the Activities.
5. Any intake of alcohol or legal / illegal drugs is not permitted in class. Participation under the influence is done so at your own risk and Our People are not held liable for consequences arising out of your actions in this regard.
6. I indemnify the suppliers, from and against any claims made against them arising from personal injury, death or property damage caused to another person by me in the course my participation in the

Activities.

7. I consent to photographs and videos ('Footage') being taken of me during my participation in the Activities, and acknowledge that any Footage are the property of the Suppliers and that they may use such Footage for any purpose, in any media, without any further consent, identification, compensation or payment of any kind being necessary.
8. I consent to receiving medical treatment if unable to provide consent at the time such treatment is deemed to be required.

To the fullest extent permitted by law, I hereby release, waive liability, discharge, hold harmless, indemnify, and covenant not to sue the Suppliers for any and all loss, damage, or liability incurred in connection with my participation in one or more of the Activities, including any loss of, or damage to, my personal property (including theft) while participating in the Activities.

WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012 (VIC): If you sign this form, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law and Fair Trading Act 2012 (Vic)* ('VACL') are excluded, restricted or modified in the way set out in this form, if you are killed or injured because the services provided were not in accordance with the statutory guarantees outlined below.

Under the VACL, several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier is required to ensure that the recreational services it supplies to you-

- are rendered with due care and skill; and
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the VACL, the exclusion of these statutory guarantees is brought to your attention by this form.

NOTE: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. **Gross negligence**, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the VACL.

This form does not seek to exclude or limited any liability that cannot by law be excluded or limited, including the consumer guarantees provided under the Australian Consumer Law contained in the *Competition and Consumer Act 2010 (Cth)* ('ACL').

I have completely read this document and fully understand its contents. I acknowledge that I have given up substantial rights by accepting this document and that I do so voluntarily.

I acknowledge and accept that I am agreeing to the contents of this Participation Waiver, whether I sign it by hand, sign it electronically, or indicate my agreement by ticking the checkbox.