

# **Todd Energy Aquatic Centre (TEAC)**

## **Terms of Membership**

**TEAC is a facility owned, managed and operated by the New Plymouth District Council (“the council”) located at 8-10 Tisch Avenue, New Plymouth. The council offers membership to TEAC on the terms set out herein (and as varied from time to time) hereinafter referred to as (“the Terms”).**

### **1. General**

In the Terms:

- (a) The Member means the person named in the TEAC Membership application form.
- (b) The Member may elect to become member of the TEAC Fitness Centre (“Fitness Centre Member”).

For the avoidance of doubt:

- (a) Fitness Centre Members are also Members under the Terms.
- (b) A Member may or may not be a Fitness Centre Member under the Terms.
- (c) Members are subject to the Terms.

The Member and TEAC are each a Party to the Terms and are together referred to as the Parties.

### **2. Membership**

#### *(a) Membership – General*

- (i) A membership allows the Member access to such of the Facilities identified in the Member’s application form in accordance with the Terms. Access will vary depending on the type of membership purchased.
- (ii) The Facilities include TEAC’s fitness centre, sauna and/or pool facilities as shown on the TEAC website (“the Facilities”).  
<https://www.npdc.govt.nz/todd-energy-aquatic-centre/>
- (iii) The membership starts on the date stated on the Member’s application form.
- (iv) The membership is not transferable to any other person.

#### *(b) Membership – Fitness Centre*

- (i) The minimum age of Fitness Centre Members is 14. Fitness Centre Membership agreements for those aged under 18 must be signed by a parent or guardian.
- (ii) Membership of the Fitness Centre will also entitle the Member to the use at no extra charge the sauna and pools at TEAC subject to compliance by the Member of the rules for their use (as displayed at TEAC).
- (iii) Membership of the Fitness Centre is not transferable to any other person.

### **3. Membership Types**

- (a) A Member can opt for either of the following memberships:
  - (i) Direct Debit Membership – the membership will start from the date stated on the Member’s application form and will continue until the Member or TEAC ends it.

- (ii) Fixed Term - the membership will start from the date stated on the Member's application form and will continue for a fixed term of either one (1) month, six (6) months or twelve (12) months as specified in the Member's application form. At the end of the fixed term, the Member will have the option to renew the Fixed Term and will inform TEAC of their intention to do so as soon as is practical before the date upon which the Fixed Term expires. If the Member does not inform TEAC of their intention to renew then at the end of the Fixed Term the Member's membership will expire.
- (iii) Concession memberships specifying a specific number of prepaid visits.

#### **4. Membership Fees**

- (a) Current membership fee rates are displayed in the reception area; copies are available on request.
- (b) The Member will pay Membership fees as follows:

- (i) Direct Debit Membership –The Member will pay the membership fees in advance by direct debit, at the frequency set out in the application form.

If the Member has elected to pay by direct debit the Member irrevocably authorises a billing agent on TEAC's behalf to debit, from the Member's nominated bank account, payment of all membership fees owing up to the effective date of termination of the membership, and if applicable, upfront fees, annual fees, late payment fees, on-hold fees and/or early termination fees. The Member may change their nominated bank account at any time by completing a new direct debit authority in favour of the billing agent. If there are other payments (beyond those listed above) owing, TEAC will notify the Member in writing of such payments due and, within 7 days of such notification, notify the billing agent to deduct all such other payments from the Member's nominated bank account, unless there is a genuine dispute relating to the payment and the Member notifies TEAC of that dispute in writing (including the full details of the dispute) within that 7 day period. If the Member notifies TEAC of a dispute in writing within the time required, TEAC shall hold off on notifying the billing agent to deduct such amount until the dispute has been resolved between the parties or pursuant to clause 24.

- (ii) Fixed Term Membership –The Member will pay the membership fees in advance for the full term of the membership they have selected.
- (iii) Concession Membership - The Member will pay the membership fees in advance for the total number of visits have selected.

- (c) Membership fees are subject to immediate change upon notice to the Members by the council/TEAC, but any such price change will not take effect until:

- (i) Direct Debit Membership - upon the date that is one month from the date that the Member is notified that Membership fees will be changed.

- (ii) Fixed-Term Membership - upon renewal of the membership;

- (d) Concession Membership fees, once paid for by the Member in accordance with clause 4(b)(iii), are fixed for that member and are not subject to change until the Member signs new concession membership.

- (e) TEAC reserves its right to refuse access to TEAC and/or the Facilities to Members who fail to meet their payment obligations as set out in the Terms.

#### **5. Freezing of Fixed Term Memberships**

- (a) A Member may apply for a Fixed Term membership to be frozen, i.e. "put on hold" for a certain period, in any of the following circumstances:

- (i) In event of sickness, injury, pregnancy (medical evidence must be provided in support).
- (ii) Where the Member travels overseas (proof of travel is required).
- (b) All applications for membership to be frozen will require the approval of the Aquatics Manager (“the Manager”). Where practicable, application must be made to the Manager in advance.
- (c) The minimum period for which a membership may be frozen shall be One (1) week and the maximum period shall be three (3) months. Memberships may be frozen only once within a 12-month period.

## **6. Cancellation of Membership Due to Circumstance**

- (a) A **Member** may cancel their membership in any of the following circumstances:
  - (i) If there is a substantial reduction in:
    - a. The Fitness Centre’s Opening Hours (excluding reasonable periods of closure for refurbishment and/or maintenance) should the Member be a Fitness Centre Member; or
    - b. Equipment reasonably suitable for use by Members.
  - (b) If the Member is no longer able to take part in any exercise at all for medical reasons (a medical certificate must be supplied).
  - (c) If the Member is moving permanent residence outside of the New Plymouth District (proof of change of address must be supplied).
  - (d) After the Manager giving no less than four (4) weeks’ notice to the Member of their intention to either close the Fitness Centre or cease to operate or manage the Fitness Centre.
  - (e) If a member cancels a membership under this clause, no additional cancellation fee is payable by the Member.

## **7. Cancellation by Notice**

- (a) A member may cancel the following Memberships by giving TEAC 10 days written notice.
  - (i) Direct Debit Membership – If the Member has a Direct Debit Membership it will be cancelled from the next payment due date after the 10 day period expires.
  - (ii) Fixed term membership - If the Member has a fixed-term membership it will end at the expiry of the 10 day period. No refunds apply if the Member cancels under this clause 7(a)(ii) unless clause 6 applies.
- (b) Concession memberships – A Member may cancel a concession membership by giving notice and such membership will be terminated upon such notice. No refunds apply for any used or un-used visits if the Member cancels under this clause 7(b) unless clause 6 applies.

## **8. Cancellation Fees for Cancellation by Notice**

- (a) Direct Debit Membership
  - (i) After a period of six months a direct debit membership can be stopped without penalty.
  - (ii) A cancellation fee of \$30 for direct debit memberships that cancel after 4-6 months
  - (iii) A cancellation fee of \$60 for direct debit memberships that cancel after 1-3 months

- (b) Cancellation of membership by the Member must be communicated to the Manager.
- (c) There are no cancellation fees for Fixed-Term and Concession Memberships.

## **9 Cancellation by the Manager**

- (a) **The Manager** may cancel a Member's membership in any of the following circumstances:
  - (i) If the Member cancels a direct debit facility, or a direct debit cannot be processed for two successive payment dates and the Manager has given the Member written notice of the intention to cancel the Membership; or
  - (ii) If the Member commits a serious or repeated breach of the Terms, Fitness Centre Terms of Membership or TEAC Rules; or
  - (iii) If the Member knowingly provides the council and/or TEAC staff with false information when applying for a membership and the false information would have reasonably affected the decision to grant the person membership; or
  - (iv) If the Member permits anyone else use of their membership card/fob.

## **10. Refunds**

- (a) Refunds shall be given under any of the following circumstances:
  - (i) To Members where a Member **legitimately** cancels their membership under clause 6. The Member shall be entitled to a refund of the portion of the membership fee that remains unused.
- (b) All refunds given under clause 6 shall be subject to a \$30 withdrawal fee, or if applicable, such other fee that was communicated to the Fitness Centre Member upon them signing the application form.
- (c) Refunds will require the prior approval of the Manager.
- (d) Refunds will not be given under any other circumstances.**

## **11. Membership RFID**

- (a) TEAC operates an RFID system; Fitness Centre Members must present their card or fob on every visit to obtain access to the Fitness Centre. This card/fob is personal to each Fitness Centre Member and must not be given to, or used by, another person.
- (b) Lost cards/fobs must be reported immediately. There is a charge of \$5.00 (GST inclusive) to replace lost cards or fobs.

## **12. Personal Possessions**

- (a) Members are fully responsible for the security of their possessions and neither the council nor TEAC/TEAC staff will be liable for any loss, theft and/or damage to any property belonging to Members.

## **13. Availability of Equipment/Activities**

- (a) At TEAC's discretion and with or without prior notice, TEAC may from time to time cancel activities or alter equipment and services. TEAC will not be responsible for any services or equipment not being available.
- (b) Fitness Centre Members can use the Fitness Centre's facilities during the hours of operation which may

updated from time to time on TEAC's website

<https://www.npdc.govt.nz/todd-energy-aquatic-centre/fitness-centre/prices-and-hours/>

- (c) TEAC is not liable for any closures or limitation in services caused by events beyond the reasonable control of TEAC.

#### **14. Health and Safety**

- (a) In the provision of the Fitness Centre, the TEAC and the council will comply with all their obligations under the Health and Safety in Employment Act 2015.
- (b) Members are also required to take all reasonable steps to ensure their own safety and ensure that their conduct does not jeopardise the safety of others.
- (c) Members must take appropriate care and precautions when using the Fitness Centre and other TEAC facilities and follow all directions and safety instructions given by the staff of TEAC.
- (d) To the extent permitted by law, neither the council nor TEAC/ TEAC staff will suffer any liability for any deterioration in health, however caused, or any injury that results from the use of the facilities by a Member. Members are fully responsible at all times for the exercise they participate in.

#### **15. Physical Condition and No Medical Advice**

- (a) Other than those disclosed in the application Members must have no medical impairment, injury, illness, disability or other condition that would either:
  - (i) prevent them from using the Facilities; or
  - (ii) cause them to be injured/get worse; or
  - (iii) mean that the use of the Facilities may harm the Member or other members.
- (b) Fitness Centre Members must advise TEAC Fitness Centre staff of any changes to their medical condition that may affect their ability to use the Fitness Centre safely.
- (c) TEAC staff will not and cannot provide members with any medical advice. If members have any health or medical concerns either before or after they join, they will discuss them with their doctor or other health professional before using the Facilities.

#### **16. Disclosure of Physical Condition**

- (a) The provision of a safe and effective exercise programme is dependent upon accurate health and fitness profiling. Members must disclose all relevant personal health and fitness information both prior to and during engagement in any exercise programme, service or facility TEAC provides, as a part of the membership. This is inclusive of any health risk assessment, initial and periodic fitness assessment and relevant information or recommendations provided to the Member by medical or allied health practitioner/s. Members also warrant and represent that they will not use the Facilities, services or products whilst suffering from any infections or contagious illness, disease or other ailment or whilst 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.

#### **17. Eligibility for Membership**

- (a) To be eligible to be a Fitness Centre Member, all applicants must, to the satisfaction of TEAC staff, have agreed to and signed the terms and conditions of membership and paid the applicable joining fee.

#### **18. Fitness Centre Rules**

- (a) Fitness Centre Members must abide by the Fitness Centre Rules that are displayed in the Fitness Centre, a copy of which are annexed to the Terms. Any changes to these rules will be displayed in the Fitness Centre. Any breaches of these rules by the Member may result in the Member being required to leave the facility.

**19. TEAC Rules**

- (a) All Members must abide by the rules displayed in the reception foyer. Any breaches of these rules by the Member may result in the Member being required to leave the facility.

**20. Privacy**

- (a) All information supplied by the Member to TEAC for the purposes of Fitness Centre membership will be kept confidential by the council.
- (b) The information supplied will be held and used only for the following purposes:
  - (i) Assessing and processing the Member's application.
  - (ii) Administration of memberships.
  - (iii) Enabling TEAC to offer Members other related services.
  - (iv) Providing TEAC with statistical information to assist the council with policy development.
- (c) Members have the right to inspect and update their personal details at any time.

**21. Alteration of Membership Terms**

- (a) The terms contained herein may be subject to alteration on reasonable prior notice being given to Members.

**22. Liability for damage**

- (a) Except to the extent prohibited by law, the council is not liable or responsible to the Member for any direct, indirect or consequential injury or loss or damage to the Member's property.
- (b) The member is responsible for any damage they cause to TEAC equipment and/or the Facilities and the Member agrees to indemnify TEAC against any loss, damage or injury TEAC suffers or incurs as a result of the Member's actions or omissions.

**23. Assignment**

- (a) TEAC may assign or transfer any of its rights or obligations relating to the membership to a third party at any time.

**24. Dispute Resolution**

- (a) If any dispute or difference arises between the Parties in relation to the Terms, the Parties will follow the following dispute resolution process:
  - (i) The Parties agree to act in good faith and use their best endeavours to cooperate with each other to promptly resolve any dispute or difference that may arise in relation to the Terms;
  - (ii) If a dispute cannot be resolved in accordance with clause 24(a)(i), either Party may give written Notice to the other at any time specifying the nature of the dispute (Dispute Notice) and requiring that the Member and the relevant authorised representative of the TEAC or the council to meet within 10 Business Days after delivery of the Dispute Notice, to attempt to resolve the Dispute (Dispute Resolution Meeting);

- (iii) If the Parties fail to resolve the dispute at the Dispute Resolution Meeting, or if a Party fails or refuses to attend the Dispute Resolution Meeting, either Party may give written Notice to the other specifying its intention to refer such dispute or difference to mediation. If a request to mediate is made, then the Party making the request will invite the chairperson for the time being of the Resolution Institute to appoint a mediator to enable the Parties to mediate and settle the dispute. All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The Parties will bear their own costs in the mediation and will equally share the mediator's costs;
- (iv) Each Party agrees not to start any further action in relation to a dispute until it has complied with the process described in the foregoing clauses;
- (v) Each Party will pay its own costs of mediation or alternative dispute resolution under the Terms;
- (vi) If there is a Dispute, each Party will continue to perform its obligations under the Terms as far as practical given the nature of the dispute.

# Todd Energy Aquatic Centre (TEAC) Fitness Centre Terms of Membership

## Declaration

I, the undersigned, do hereby declare that I have read, understood and agree to the Fitness Centre Terms of Membership and the rules attached hereto, and agree to abide by them. I declare that all information supplied regarding my membership is true and correct to the best of my knowledge. I understand that if I breach any of these terms or rules that my membership may be terminated with no obligation for fees already paid to be refunded. I do hereby certify that I am aged 18 years or over.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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

## Parental consent to membership required for persons aged **under 18**

I, the undersigned, do hereby certify that I am the parent/legal guardian/caregiver of the applicant for membership who is under the age of 18. I declare that I have read and understood the Fitness Centre Terms of Membership and the rules attached hereto, and consent to the applicant becoming a member of the Fitness Centre under these conditions. I declare that all information supplied regarding their membership is true and correct to the best of my knowledge. I confirm that I have explained the terms and rules contained herein to the applicant. I understand that if the applicant breaches any of these terms or rules that their membership may be terminated with no obligation for fees already paid to be refunded.

## Parent/Legal Guardian or Caregiver: *(please circle as applicable)*

Name: \_\_\_\_\_ Name of Applicant: \_\_\_\_\_

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

## Todd Energy Aquatic Centre (TEAC)

### **Fitness Centre Rules**

#### **All users of the Fitness Centre must abide by the following rules:**

1. Children under 14 are prohibited from the Fitness Centre at all times.
2. All weights, dumbbells and barbell plates must be returned to the racks when finished with.
3. For health and safety reasons, sport shoes or other suitable closed footwear must be worn at all times. Work boots, jandals and other open-toed shoes are **not** permitted.
4. Appropriate clothing for comfort and safety, must be worn at all times in the Fitness Centre.
5. Users must wipe down equipment with the wet wipes provided before proceeding to the next station.
6. Users must maintain a high standard of hygiene.
7. Users are responsible for their personal belongings at all times. The council and TEAC staff will not be liable for any loss, theft and/or damage to any property.
8. Users must take due care when using the equipment provided. Abuse of Fitness Centre equipment will not be tolerated.
9. Users are expected to behave courteously towards other users and the staff of TEAC at all times and shall under no circumstances behave in a threatening or violent manner. Anyone behaving in an unacceptable manner will be required to leave TEAC.
10. Fitness Centre rules may be subject to alteration from time to time to meet any health and safety or other legislative requirements.