



Crunch NY Membership Terms and Agreement

Nonrefundable Annual Fee: Each year, Member will be required to pay an annual facility maintenance fee in the amount listed above in addition to their Monthly dues for programs, equipment, classes, facility upgrades and maintenance. The Annual Fee is nonrefundable and is due and payable each year on the 15th day of the 3rd month, in accordance with the month of your membership enrollment date, so long as the membership is in effect.

Payment Authorization:

As the owner of the account above, I authorize Crunch, LLC to charge my credit card account listed above, or to debit my deposit account listed above by Electronic Funds Transfer ("EFT") or by debit card, for all applicable fees incurred in connection with my Crunch membership, including but not limited to the Initial Investment Fees, Recovery Services Fee(s), Monthly dues, Annual Fee, Member Day Fee(s), Group Fitness late / no show fees, and incidental charges. Crunch, LLC shall notify me by email at least ten (10) days before each Member Day Fee payment or other non-scheduled incidental charge or other charge is deducted from my account by EFT, if applicable. By signing below, I agree to such electronic delivery of notices. Furthermore, I understand that my ongoing consent to receive such notices in an electronic format is voluntary and may be revoked at any time by contacting Crunch, LLC. This authorization remains in full effect until my Crunch membership expires or my Crunch Membership Agreement has been cancelled pursuant to the terms thereof.

CONSUMER RIGHT TO CANCELLATION: You may cancel this Agreement without any penalty or further obligation within three (3) business days from this date. Notice of cancellation shall be in writing subscribed by the Buyer and mailed by United States mail to: Crunch Attn. Member Services, Crunch, PO Box 481, Elmsford, NY 10523, or electronic mail to Crunch via email from an email address on file with the health club facility to: crunchms@crunch.com, or hand delivered to the club facility. Such notice shall be accompanied by the contract forms, membership cards and any other documents or evidence of membership previously delivered to the Buyer. All moneys paid pursuant to such Agreement shall be refunded within ten business days of receipt of such notice of cancellation. Furthermore, if the Agreement was entered into online, Member may cancel the Agreement online using the contact us link at www.crunch.com.

ADDITIONAL RIGHTS TO CANCELLATION: You may cancel this Agreement upon written notice, sent by United States mail, email, or hand delivered to the club facility, for any of the following reasons:

- a) If upon a doctor's order you cannot physically receive the services because of significant physical difficulty for a period in excess of three months (must provide a doctor's note).
- b) If you die your estate shall be relieved of any further obligation for payment under this Agreement not then due and owing.
- c) If you move your residence more than twenty-five miles away from any health club operated by Crunch, or an affiliated Crunch health club (must provide proof of new residence). A \$25 fee will be assessed.
- d) If the services of the club cease to be offered as stated in the Agreement.

Crunch shall accept cancellation of a membership by the Buyer or the Buyer's estate no later than three business days after receiving notice of the cancellation.

All moneys paid pursuant to such contract cancelled for the reasons contained in this subdivision shall be refunded within ten business days of receipt of such notice of cancellation; provided however that the seller may retain the expenses incurred and the portion of the total price representing the services used or completed, and

further provided that the seller may demand the reasonable cost of goods and services which the buyer has consumed or wishes to retain after cancellation of the contract. In no instance shall the seller demand more than the full contract price from the buyer. If the buyer has executed any credit or loan agreement to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall also be returned within ten business days.

You are responsible for all services prior to termination and there may be a \$25 fee assessed to any member who cancels their membership for any of the above four reasons before the end of the initial membership term.

THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR PAYMENT OPTIONS

You may make payments on an installment basis or in a single payment. Paying the full amount may be less expensive, but may involve financial risks to you. Read this notice carefully before making a decision. New York State law requires certain health clubs to post a bond or other financial security to protect members in the event the club closes. This club is exempt from this requirement since it gives members the option of paying on an installment basis, therefore it need not post a bond or other form of financial security. In deciding whether to make your payments on an installment basis, you should be aware that if the club closes, although the club will remain legally liable for a refund, you may risk losing your money if the club is unable to meet its financial obligations to members.

By Member's and/or Buyer's execution of a Membership Agreement with Crunch (the "Agreement"), the Member agrees to the following Terms and Conditions ("Terms and Conditions"), including without limitation the arbitration provisions set forth in Section 3.22:

ADDITIONAL MEMBERSHIP AGREEMENT TERMS

(1) MEMBERSHIP PAYMENT AND TERMS

(1.1) Description of Services. This is a club membership agreement and not an optional services agreement such as personal training, which is a separate agreement. This club membership agreement entitles Member to access the facility or facilities designated in this Agreement during business hours. The specific business hours of each facility are listed in the locations link at www.crunch.com. This club membership agreement provides Member access to cardiovascular, strength and conditioning machines. It also provides Member access to certain exercise classes and other amenities if available at such facilities and included in your selected membership type, and access to Recovery Services if purchased by Member and/or Buyer. As a result of a national governmental order or health and safety restrictions, which prohibit or limit the use of some or all of the inside facility services, certain activities and services may be conducted outdoors.

(1.2) Rules, Regulations and Schedules. Member agrees to abide by the rules, regulations and schedules of the Crunch facilities, which may be posted at a facility, sent by email to Member's email address on file with Crunch, or issued orally, and which may be amended from time to time. Upon joining, Member and/or Buyer must pay the appropriate initial charges, which includes the Enrollment Fee and the Processing Fee. The Initial Investment Fees are non-refundable after the 3 days Consumer Right to Cancellation period provided herein. At the sole discretion of Crunch, a Member's membership may be revoked or suspended at any time if in the judgment of Crunch: (a) Member consistently fails to observe the Rules and Regulations (b) has otherwise behaved in a manner contrary to the best interests of Crunch or any of Crunch's Members, (c) Member has instituted any type of legal action against Crunch, including but not limited to civil actions, arbitrations and/or mediations, and/or (d) Crunch has instituted any type of legal action including but not limited to civil actions, arbitrations and/or mediations against Member. All members must have a photo on file in Crunch's Member Management system to verify Member. This photo is strictly used for security purposes only and will not be distributed with the exception of a request from a law enforcement agency. Nothing in this Agreement shall be construed as waiving the Member's right to make any statement regarding Crunch.

(1.3) Member's Obligation. Member and/or Buyer shall not be relieved of the obligation to make payments agreed to and no deduction from any payments shall be made because of Member's failure to use the Crunch facilities or Recovery Services. Dues are for the period stated in the Agreement.

(1.4) Initial Investment Fees. There are one-time Initial Investment Fees which Member and/or Buyer shall be required to pay upon execution of the Agreement and acceptance of these Terms and Conditions with Crunch. The Initial Investment Fees will change from time to time at Crunch's discretion. The Initial Investment Fees are nonrefundable after the 3 days Consumer Right to Cancellation period provided herein. Resignation from Crunch shall not terminate the obligation to pay the Initial Investment Fees in full after the 3 days Consumer Right to Cancellation period. . There will be no further Initial Investment Fees as long as the Membership has not terminated or expired.

(1.5) Monthly Dues, Annual Fee, and other Fees. Member or Buyer shall pay, in advance, Monthly Membership dues as set forth in the Agreement. Crunch may adjust Monthly dues and the Annual Fee upon giving Members thirty (30) days' prior notice, posted in a Crunch facility, sent by email to Member's email address on file with Crunch, and/or sent by mail to Member or Buyer. Except as otherwise set forth herein, Crunch may adjust any fees at any time at its sole discretion. Crunch has the right to add to the Monthly Membership dues any tax imposed by the government.

(1.6) Form of Payment. The Initial Investment Fees, Monthly dues, Annual Fee, Recovery Services Fee(s), Member Day Fee(s), Group Fitness late/no-show fees, and incidental charges are payable by Electronic Funds Transfer ("EFT") from the Member's checking account, savings account, credit card account, or debit card account. Members must authorize payments to be made through a third party administered electronic funds transfer system. Members maintain full control and privacy over their accounts at all times, and the transfer of funds affects only those fees that have prior authorization of the Member. The transfer will take place automatically once every month unless Crunch notifies the Member otherwise by giving Members thirty (30) days' prior notice, posted in a Crunch facility, sent by email to Member's email address on file with Crunch, and/or sent by mail to Member or Buyer. If Crunch does not collect Member's Monthly dues using the form of payment provided by the Member, then Crunch may continue attempting to collect Member's Monthly dues, plus any applicable fees, using the form of payment provided by the Member.

(1.7) Dishonored Check or Credit Card. If any check, account debit, or credit card charge payable to Crunch by Member and/or Buyer is returned, rejected or dishonored, Crunch management shall, in each instance (a) assess a charge equal to any charge imposed by the financial institution, any costs and expenses incurred in connection with collection plus an administrative fee which may be adjusted from time to time, and (b) collect the current and past due balance owed Crunch in any subsequent month.

(1.8) Limited Memberships. Memberships may be limited so that Members may have reasonable access to Crunch facilities. It is to be expected that there may be occasional delays, especially during peak hours, in using the fitness equipment; limited services as a result of a national governmental order or health and safety restrictions which prohibit or limit the use of some or all of Crunch's services; or that Members may not always be

able to attend preferred exercise classes. The availability of classes and equipment are subject to demand and health and safety restrictions, and are available on a first-come first-served basis.

(1.9) Unpaid Balances. All balances owed by Member and/or Buyer that are in arrears are subject to monthly service charges. These fees may be adjusted from time to time. Any unpaid balances for membership fees, goods or services may result in suspension of membership privileges. Member and/or Buyer shall be obligated to pay any cost incurred by Crunch for collection. Crunch reserves the right to charge past due balances, plus applicable charges, to the Membership account under the EFT authorization.

(1.10) Membership Term. The Period covered by the first month's dues, as well as any additional days of Membership for which payment is received by Crunch, or any prepaid period is the "Paid Period". The "Paid Period" is the term of this Membership Agreement.

(1.11) Cancellation of Membership. To cancel any membership before the completion of the original term, Member must follow the procedures set forth in Section 4 of these Terms and Conditions.

(1.12) Change of Membership Type. Member may change his or her membership classification by written request and upon payment of a fifty-dollars (\$50) processing charge, plus the difference, if any, in the Initial Investment Fees and Monthly membership dues. No refund of the Initial Investment Fees will be made by Crunch after the 3 days Consumer Right to Cancellation period provided herein. The processing charge may be adjusted from time to time at Crunch's sole discretion.

(1.13) Change of Membership Location. A Member who has a ONE CRUNCH (as defined herein) or similar type membership may change his or her membership to another Crunch location by written request and upon payment of an administrative fee not to exceed fifty dollars (\$50), plus the difference, if any, in Monthly membership dues. Such processing charge may be adjusted by Crunch from time to time without notice to Member.

(1.14) Freeze Policy. (a) Medical. If Member is medically unable to use the Crunch facilities, Member may request a freeze of his or her membership in monthly increments for a minimum of 1 month and maximum 6 months per year. Members must provide a doctor's note at the time of requesting a freeze. Crunch reserves the right to verify the note with the doctor and Member agrees to waive any Doctor/ Patient privilege and execute any release required by such doctor solely with regards to the medical reasons stated in the doctor's note for the medical freeze. (b) Non-medical. If a Member desires to freeze his or her account for a non-medical reason, Member should consult with Crunch. Crunch reserves the right to adjust this freeze policy from time to time at its sole discretion. All requests must be received at least ten (10) days prior to Member's next billing date period. Retroactive freezes will not be accepted. Certain fees may apply to any freeze of a Member's membership.

(1.15) Buyer's Indemnity. Buyer assumes full responsibility for any person who becomes a Member under the Agreement and these Terms and Conditions and shall indemnify Crunch, its affiliates, any Crunch franchisee, and their respective members, officers, managers, directors, owners, agents, independent contractors, and employees (hereinafter referred to as "the Releasees") against any and all liability incurred by such Member during his or her use of any and all Crunch facilities.

(2) WAIVER AND RELEASE. Member and Member's guests shall hold the Releasees harmless from any and all illnesses, losses, thefts, costs, claims, demands, injuries, personal injuries, property damage, wrongful death, loss of services, damages, actions or causes of action, or liabilities, present or future ("Damages") whatsoever incurred as a result of the use of a Crunch facility, Recovery Services, and any other membership activities, except such Damages which result from the willful misconduct, gross negligence, or negligence of the Releasees. **In addition to the waiver and release in this Section 2, by signing this Agreement, Member and Member's guests shall be bound by the Relax & Recover Plus Release of Liability Waiver at the end of this Agreement.**

(2.1) Member's Health Warranty. Member and Buyer represent that Member is in good health and has no disability, impairment, injury, disease, known or obvious symptoms of or risk factors for a highly communicable disease (i.e. COVID-19), or ailment, preventing him or her from engaging in active or passive exercise or which could cause increased risk of injury or adverse health consequences as a result of exercise or use of the Recovery Services. Member assumes full responsibility for his or her use of a Crunch facility and the Recovery Services, and shall indemnify the Releasees, against any and all Damages arising out of Members use of the facilities except as otherwise set forth in these Terms and Conditions. Physical examinations by Member's physician are recommended for Members before commencing any exercise program/Recovery Services, and especially for Members who are at risk, including but not limited to elderly or pregnant Members, or Members unaccustomed to physical exertion, or who have physical limitations, respiratory ailments or impairments, a history of high blood pressure, heart problems or other chronic illnesses, or Members who have a history of heart disease.

(2.2) Medical Disclaimer. Member has been informed and acknowledges that Crunch has made no claims as to medical results that can or may be obtained through use of any Crunch facility or Recovery Services and cannot and does not warrant that such facility is free from communicable diseases. Crunch has neither suggested nor will it suggest any medical treatment to Members. Only licensed medical professionals are qualified to give medical advice. Member is instructed not to act on the advice given by any Crunch employee unless such advice has been verified by Member's licensed professional physician. Member represents that there are no medical or physical conditions or known symptoms or risk factors that would preclude the use of Crunch's facilities and Recovery Services, and each Member further represents that he or she has not been instructed by any physician not to use Crunch's facilities, Recovery Services, or any similar facility.

(2.3) Orientation. Member is strongly encouraged to take advantage of the complimentary initial orientation and ongoing support available to ensure safe and proper use of all equipment.

(2.4) Activity Risk/Waiver and Release. Any strenuous athletic or physical activity involves certain risks. Use of public facilities may increase the risk of transmission of communicable diseases. Member and Member's guests assume the risk of any and all accidents or injuries of any kind that may be sustained by, or in connection with, use of the Crunch facilities and Recovery Services, and release and hold the Releasees harmless, discharge and absolve the Releasees from any and all Damages or responsibility except if such accident or injury is the result of the willful misconduct or gross negligence of the Releasees.

(2.5) Loss of Property. Member and Member's guests are urged not to bring valuables onto the premises of a Crunch facility. Crunch shall not be liable for the disappearance, loss, theft, or damage to personal property, including money, negotiable securities, items left in coat check lockers, or jewelry of Member or Member's guests.

(3) GENERAL PROVISIONS

(3.1) Members and Guests Rules. Member and Member's guests shall abide by the rules and regulations and any amendments and/or modifications thereto of the Crunch facilities which may be reasonably made from time to time.

(3.2) Proof of Membership. Member shall receive one membership card (included with Member's membership) (the "Membership Card") from Crunch and must present it to the reception desk personnel each time Member enters a Crunch facility. Lost membership cards will be replaced for a fee of five dollars (\$5), which may be adjusted from time to time. **The card must be replaced if lost.** Member is required to notify Crunch immediately of the loss of his or her Membership Card, and the Membership Card must be replaced by Member. Membership privileges are limited to the person in whose name the membership is issued. Improper use of the membership will result in confiscation of the Membership Card and can result in immediate cancellation of Member's membership. A Member wishing to use Crunch's facilities without his or her Membership Card will be required to provide proof of identity (e.g. valid driver's license, etc.).

(3.3) Day Lockers. Day Lockers may be provided solely for the benefit and convenience of Members. Crunch will remove any articles left in a day locker overnight. Member must provide his or her own lock and should not leave any valuables in a day locker.

(3.4) Annual/Monthly Locker Rental. Lockers may be rented on an annual or monthly basis by Member for a fee. If Member does not renew the annual or monthly rental of a locker upon the expiration date of the rental, Member will be notified of the termination of the rental. Crunch will hold the contents of the locker for thirty (30) days after the termination date and will not be responsible for the contents thereafter. Crunch shall not be liable for the disappearance, loss, theft, or damage to personal property, including but not limited to money, negotiable securities and/or jewelry kept in lockers rented on an annual or monthly basis. Member must provide his or her own lock for the duration of the rental.

(3.5) Pets and Bicycles. Pets (not including service animals) and bicycles are not permitted in or around a Crunch facility.

(3.6) Dress Code. Proper athletic attire is required. Crunch management reserves the right to make the final determination in its sole discretion with regard to appropriate attire.

(3.7) Protective Eyewear. Racquet sports players are required to wear eye protection on the courts.

(3.8) Third Party Services. From time to time, Crunch may make the services of third-party providers available to Member and/or Member's guests. Crunch does not warrant the quality of these services and does not guarantee that these services will remain available to Member or Member's guests for any period of time. Crunch will only provide the third-party provider Member or Member's guest data in order to enable the delivery of these services and will not sell Member or Member's guest data needed to enhance Member or Member's guest's services. **By signing this Agreement, Member or Buyer consents to the sharing of Member's data in accordance with this section and the Privacy Policy set forth herein.**

(3.9) Member's Guests. Member's guests are permitted in Crunch, but only pursuant to such rules, regulations, fees, and schedules for guests as then may be in effect. Crunch reserves the right to limit the number of times any one guest can use a Crunch facility and reserves the right to exclude any Member's guest whose use of the facility, in the sole opinion of Crunch, would be detrimental to Crunch or any of its members. All Members' guests must register at the front desk with valid identification.

(3.10) Reciprocity and Use Privileges. "ALL CRUNCH" memberships allow access to all Crunch locations, although home facility must be primary facility of use and in close proximity to permanent home address. "ONE CRUNCH" memberships allow access to only one designated Crunch location. A Member who has a Membership, which only allows access to one designated Crunch location or certain days and hours at one designated Crunch location, may be required to pay an additional fee ("Member Day Fee") for each daily visit to have access to a Crunch location beyond what is permitted in this Agreement (the "Member Day Fee Program"). The Member Day Fee and the Crunch locations that participate in the Member Day Fee Program may change from time to time in Crunch's sole discretion. Member understands that the use of any Crunch club(s) pursuant to the Member Day Fee Program and ALL CRUNCH membership is subject to the terms and conditions of this Agreement. Member further agrees to follow all rules and regulations now in force or in the future adopted by such Crunch club(s) it uses pursuant to the Member Day Fee Program and ALL CRUNCH membership. The Member Day Fee Program may be discontinued or modified by Crunch in its sole discretion. From time to time, other membership plans may be offered; please ask Crunch management for details. Certain memberships allow reasonable access to the Recovery Services. However, additional rules and fees may apply for the Recovery Services.

(3.11) Spotting. Crunch recommends to all Member's and to all Member's guests, spotting by another member or Crunch trainer when using any free-weights.

(3.12) Change in Membership Information. Member must promptly notify Crunch in writing of any changes in his or her billing information, address or telephone number. Notwithstanding anything else contained herein, all communications from Crunch to Member shall be presumed to have been received by Member within five (5) days after mailing to Member's address on file with Crunch at the time of the mailing.

(3.13) Smoking. Smoking is prohibited at all times in all Crunch facilities.

(3.14) Change In Facilities and Operating Hours. As a result of repair, maintenance or special occasions, or due to health and safety concerns, Crunch may be required to restrict the use or temporarily close one or more of Crunch facilities or halt or modify a Crunch 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. Crunch facilities' hours of operation may be modified from time to time without prior notice to Member. Crunch reserves the right to change the facilities from time to time, to eliminate some facilities and services, to add others, to add, modify and/or eliminate programs, activities, classes or equipment at Crunch's sole discretion.

(3.15) Special Events. Crunch may from time to time reserve the use of its facilities for special events, competitions and private functions.

(3.16) Closing of Crunch Facility. It is anticipated that a part of a facility or the entire facility will be temporarily unavailable from time to time while repairs or renovations take place or for safety and health reasons. Management will make every effort to minimize any disruption to members during these periods and, if possible, to schedule any work during off-hours or summer months. Crunch may be closed for holidays, and may be closed for two weeks in the summer for renovations. Crunch may also offer members the use of other conveniently located Crunch facilities during the period of unavailability.

(3.17) Interruption of Service. In case of a long-term interruption of service (e.g. fire, state, local or national governmental order or health and safety restrictions which prohibit or limit the use of some or all of the services, or other circumstances that restrict use of some or all of the services or make provision of services unadvisable), Crunch reserves the right to: (a) freeze memberships and add the lost time once services resume; (b) transfer the Member to another similar Crunch facility within a five-mile radius where available; or (c) provide goods and services of equal or greater value as solely determined by Crunch to make up the lost services. In the event that an act of God (hurricane, earthquake, national emergency etc.), causes more than a temporary closing of Crunch facilities, Member's obligations under the Agreement and these Terms and Conditions will be suspended until such time as use of the facilities can be resumed. Obligation for contractual dues will otherwise not be affected unless Crunch facilities cannot reopen within one year of the interruption of service.

(3.18) Non-Discrimination. Crunch represents that it will not discriminate against any person because of sex, race, creed, age, color, national origin, sexual orientation, gender identity, or ancestry in considering applications for membership. The minimum age for Crunch membership is eighteen (18), unless parental permission and Crunch's consent is given and approved by Crunch at Crunch's sole discretion.

(3.19) Children's Use. All children under eighteen (18) years of age must be accompanied by such child's parent or guardian at all times within a Crunch facility unless: (i) they are in a supervised activity, or (ii) they are sixteen (16) years of age and over, with parental permission and approval by Crunch management (at Crunch management's sole discretion) received by the facility. Some children's programs require fees to be paid in advance. Crunch management reserves the right to discontinue use by any child who is unsupervised, or whose behavior is offensive or disruptive.

(3.20) Group Fitness Policies. Each class is limited to a set number of participants and social distancing policies that may apply. Members are not permitted to enter a class late without the instructor's consent. No one will be admitted ten (10) minutes after the scheduled class time. If Member is just starting a group fitness program or has an injury, prenatal or problem that may prevent full participation, please discuss this with the group fitness instructor at least five (5) minutes before class. Proper clothing and footwear must be worn in all group fitness classes and Members may be asked to wear gloves in certain classes. Crunch facilities reserve the right to change the group fitness schedule at any time including the addition or the deletion of classes, as well as changes in instructors, class times, length of classes, and move a class outside of the gym for health and safety reasons. Crunch facilities reserve the right to change group fitness policies when necessary, adjust the number of people in a class for any reason, and require advanced

reservations for all classes. Members may reserve classes via Crunch's online class reservation system. Reservations may be released within five (5) minutes prior to the scheduled class time and Member may enter on a walk-in basis provided there are openings in the class. Members attending a class shall, in addition to the Terms and Conditions, follow any rules promulgated by such class' instructors.

(3.21) Personal Training and other Commercial Activity. In addition to these Terms and Conditions, any and all personal training provided by Crunch shall be pursuant to any additional terms and conditions set forth in a separate personal training contract entered into by a Member and Crunch. Use of any outside personal trainers, solicitation, or conducting commercial activity of any kind is prohibited at all Crunch facilities. Member may not train other members or guests, conduct business activity or solicit any business at any Crunch facility. Any violation of this policy may result in legal action as well as forfeiture of any remuneration received by a Member or guest for such prohibited personal training services. We make every reasonable effort to provide the personal trainer of choice; however, we reserve the right to substitute another qualified trainer with no prior notice if necessary. No refunds will be given based on the termination or resignation of any employee.

(3.22) Dispute Resolution and Arbitration. At the election of either the Member or Buyer ("you") or Crunch, including Crunch's employees, parents, subsidiaries, affiliates, agents, successors and assigns (collectively for this section, "Crunch" or "We"), any claim, dispute or controversy, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory ("Claim") by either you or Crunch against the other, arising from or relating in any way to (i) this Agreement, (ii) your Crunch membership or use of Crunch facilities, or (iii) (except as specifically provided in this Agreement) the applicability of this arbitration clause or the validity of the entire Agreement, shall be resolved exclusively and finally by binding arbitration under the Consumer Arbitration Rules of the American Arbitration Association ("AAA") in effect on the date a demand for arbitration is made. A copy of the AAA rules, including directions on how to initiate a claim, may be obtained from the AAA website at www.adr.org or by contacting Crunch. The above notwithstanding, any Claim that relates to allegations of Member's or Buyer's personal injury shall be outside the scope of this arbitration provision as shall any Claim required to be filed in a court by state or federal law.

Claims made and remedies sought as part of a class action, private attorney general or other representative action (hereafter all included in the term "class action") are subject to arbitration on an individual basis, not on a class or representative basis. The arbitration will not determine class claims and will not be consolidated with any other arbitration proceedings. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to address that party's individual Claims.

Any arbitration or court trial (whether before a judge or jury or pursuant to judicial reference) of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). THE CLASS ACTION WAIVER PRECLUDES ANY MEMBER OR BUYER PARTY FROM PARTICIPATING IN OR BEING REPRESENTED IN ANY CLASS OR REPRESENTATIVE ACTION REGARDING A CLAIM. The parties to this Contract acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is non-severable from this Contract to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. THE PARTIES ACKNOWLEDGE AND AGREE THAT UNDER NO CIRCUMSTANCES WILL A CLASS ACTION BE ARBITRATED.

ARBITRATION IS BINDING AND NEITHER YOU NOR WE WILL HAVE THE RIGHT TO LITIGATE A CLAIM WHICH IS SUBJECT TO ARBITRATION IN A COURT. YOU AND WE WILL NOT HAVE THE RIGHTS IN ARBITRATION THAT ARE PROVIDED IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JUDGE OR JURY. IN ADDITION, THE RIGHT TO DISCOVERY AND THE RIGHT TO APPEAL ARE ALSO LIMITED OR ELIMINATED BY ARBITRATION.

OPT-OUT. YOU MAY OPT-OUT OF ARBITRATION BY NOTIFYING CRUNCH IN WRITING THAT YOU DO NOT WANT TO RESOLVE DISPUTES WITH CRUNCH BY ARBITRATION. SUCH NOTICE SHOULD BE DELIVERED BY MAIL TO CRUNCH ATTN. MEMBER SERVICES, CRUNCH, PO BOX 481, ELMSFORD, NY 10523 WITHIN 30 DAYS OF THE DATE YOU SIGNED THIS AGREEMENT.

Alternatively, you and Crunch may pursue a Claim within the jurisdiction of any appropriate Small Claims Court, or the equivalent court in your home jurisdiction (each a "Small Claims Court"), provided that the action remains in that court, is made on behalf of or against you only and is not made part of a class action, private attorney general action or other representative or collective action. You and Crunch also agree not to seek to enforce this arbitration provision, or otherwise commence arbitration based on the same claims in any action brought before the Small Claims Court.

All Claims, whether brought in arbitration or in court, will be barred unless the proceeding is commenced within 2 years from the date the complaining party knew or should have known of the facts giving rise to the Claim.

This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. This Agreement and your membership will be governed by the laws of the state where you reside and, as applicable, federal law.

Judgment upon any arbitration award may be entered in any court having jurisdiction. In the event that there is a dispute about whether limiting arbitration of the parties' dispute to non-class proceedings is enforceable under applicable law, then that issue shall be resolved by litigation in a court rather than by the arbitrator. If it is determined that resolution of a Claim shall proceed on a class basis, it shall proceed in a court of competent jurisdiction rather than in arbitration. Unless the parties expressly agree otherwise, any in-person arbitration proceeding will take place within the boundaries of the federal judicial district court where you live.

Crunch will pay, or reimburse you for, all arbitration fees or costs to the extent required by law or the rules of the AAA. Whether or not required by law or such rules, if you prevail at arbitration on any Claim against Crunch, Crunch will reimburse you for any fees paid to the AAA or the arbitrator in connection with the arbitration proceedings. If you are required to advance any fees or costs to the AAA, but you ask Crunch to do so in your stead, Crunch will consider and respond to your request.

This arbitration agreement applies to all Claims now in existence or that may arise in the future. This arbitration agreement survives the termination of this Agreement and the completion of your Crunch membership, including your payment in full, and your filing of bankruptcy.

(3.23) Entire Agreement. The Agreement, these Terms and Conditions, and all rules and regulations of Crunch, as revised from time to time, constitute the entire and exclusive agreement between Crunch and Member, and supersedes all prior promises, representations, understandings and/or agreements relating to this membership purchase. The Agreement may be modified only by an instrument in writing; however, Crunch or any assignee of the Agreement is authorized to correct patent errors in the Agreement (and in other related documents) and Member and/or Buyer may verbally authorize payment of the outstanding balance of the membership fee by the automatic payment plan. In addition, Crunch or any assignee of the Agreement may modify the Agreement at any time as necessary to comply with changes in applicable law. Crunch can void the Agreement if it is not completed by a Crunch employee in accordance with the current pricing and payment programs, or if there has been any misrepresentation by Member. No written alterations or amendments to the Agreement and/or these Terms and Conditions shall be valid and **Crunch employees are not authorized to make any changes written and/or verbal, additions or modifications to this Agreement.**

(3.24) Governing Law. This Membership Agreement shall be interpreted under the laws of the State of New York. Any litigation under this Membership Agreement shall be resolved in the courts of the State of New York or a federal court sitting in New York.

(3.25) Privacy Policy. Members can review Crunch's privacy policy online at <https://www.crunch.com/privacy-policy>.

By signing below, I consent to receive promotional emails, calls (including prerecorded calls), and automated SMS texts from Crunch, LLC, its affiliates, and/or its agents or vendors. I confirm that I am the authorized user of the provided email

and phone number. I understand that my consent is voluntary and not a condition of purchasing any goods or services. I can opt out anytime by unsubscribing from emails or texting STOP to any SMS. Standard message and data rates may apply. I also agree to the Crunch Terms of Use at <https://www.crunch.com/terms-of-use> and Privacy Policy at <https://www.crunch.com/privacy-policy> and consent to collecting certain location and usage information as detailed in the Privacy Policy.

By signing this Agreement, you are (1) consenting to use of your electronic signature to record your commitment to the terms and agreement(s) in lieu of an original signature on paper; (2) consenting to receiving an electronic copy of all agreement(s) rather than paper copies; (3) agreeing to the receipt of electronic communications; and (4) acknowledging that you have read, understand and agree to such terms and conditions. A copy of the agreement(s) can be downloaded by you from the email you provided, or logging into your account. This consent applies to all categories of electronic records and agreements that may be made available during the course of your contractual relationship with Crunch, LLC.

In connection with your consent to use your electronic signature to record your commitment to the terms and agreement(s), and consenting to receiving electronic communication and an electronic copy of your agreement(s) to the email you provided, please note the following important terms:

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- (a) You have the right at any time to obtain a paper copy of the agreement(s). To request a paper copy of the agreement(s), please personally visit a Crunch, LLC club facility and request a paper copy of the agreement(s) at the front desk. No fee will be charged to you for a paper copy of the agreement(s); and**
 - (b) You have the right at any time to withdraw your consent to have the agreement(s) provided or made available in an electronic form without the imposition of any fees for such withdrawal. To withdraw your consent to receive electronic forms and notices, please contact the Member Services Department at crunchms@crunch.com.**
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Additionally, you confirm that prior to providing your consent, you currently have the hardware and software required to read and retain your membership and/or other service agreement(s) (that are provided in a .PDF format), and any notices and other information that Crunch, LLC may send to you in electronic form. These requirements include internet access, a working email address, Adobe Acrobat (or comparable software to view/download .PDFs) and access to a working printer. You also confirm that you will promptly notify Crunch, LLC if your email address is discontinued or changed. You can change your email and/or address information by contacting the Member Services Department at crunchms@crunch.com. If there is a change in the hardware or software requirements needed to access or retain your electronic records, Crunch, LLC will immediately provide you with a statement of the revised hardware and software requirements, and your right to withdraw your consent in such event of change.

(4) SPECIFIC TERMS AND CONDITIONS APPLICABLE ONLY IN THE STATE OF NY

(4.1) Cancellation of Membership. To cancel any membership before the completion of the original term, Member must follow the procedures set forth below of these Terms and Conditions.

(4.1.1) Member has three (3) business days to cancel the Agreement from date of purchase. To cancel, mail, email, or deliver a signed and dated notice that states that you, the Buyer, are cancelling this Agreement, or words of similar effect. The notice shall be sent by United States mail to the following address: Crunch Member Services, Crunch, PO Box 481, Elmsford, NY 10523, via email from an email address on file with the health club facility or hand delivered to the club facility. Crunch email: crunchms@crunch.com. If you are mailing the notice, it is recommended that (you) Member send (your) Member's cancellation notice by registered or certified mail or statutory overnight delivery, return receipt requested, in order to prove that (you) Member did cancel. If Member hand delivers Member's cancellation to a Crunch facility, Member should be sure to receive a signed statement from a Crunch employee acknowledging Member's cancellation. To be effective, Member's cancellation must be either postmarked by midnight, or hand delivered by midnight on the third (3rd) business day after the contract was signed, and must include all contract forms, membership cards, and any and all other documents and evidence of membership previously delivered to Member. Furthermore, if the Agreement was entered into online, Member may cancel the Agreement online using the contact us link at www.crunch.com.

(4.1.2) Death or Disability. If Member dies or becomes totally and permanently disabled during the membership term, Member may cancel his or her contract and Crunch is entitled to a reasonable predetermined fee in such event in addition to an amount equal to the value of services made available for use by Members. This amount shall be computed by dividing the months expired under the membership term. Member or Member's estate must provide reasonable evidence of total and permanent disability or death. For purposes of this subsection, "total and permanent disability" means a condition which has existed or will exist for more than three (3) months and which will prevent Member from using facility to the same extent as Member used it before commencement of the condition.

(4.1.3) Close of Facility and/or Move. Under this contract, no further payments shall be due to anyone, including any purchaser of any note associated with or contained in this contract, in the event the Crunch facility at which the Agreement is entered into permanently ceases operation and fails to offer an alternate location, substantially similar, within ten (10) miles.

(4.1.4) Member (you) may cancel the Agreement within three (3) business days from the time Member knew or should have known of any substantial change in services or programs available at the time Member (you) joined. Substantial changes include, but are not limited to, changing from being coed to being exclusively for one sex and vice versa. To cancel, Member must send written notice of Member's cancellation by United States mail to the address provided in Section 4.1.1, via email from an email address on file with the health club facility, or hand-delivered to the club facility. Crunch email: crunchms@crunch.com.

(4.1.5) Member may cancel the Agreement if they can provide proof that Member is permanently moving more than twenty-five (25) miles away from any Crunch facility. Proof such as a utility bill, lease agreement, driver's license, military orders or any other document that could validate such proof will be accepted. A twenty-five dollars (\$25) fee will be assessed.

(4.2) All paperwork is deemed a request until a Crunch employee can validate paperwork and approve such cancellation. A cancellation that has been denied will be sent in writing back to Member along with reason of denial or instructions for acceptance and refund.

(4.3) OTHER.

(4.3.1) To cancel a Member's Monthly membership after completing the initial term (which term shall include the period covered by the First Month's Dues as well as any additional days of membership for which payment is received by Crunch upon the commencement of the membership), Member must: (1) complete a Request for Cancellation Form within three business days after such renewal takes effect; (2) relinquish Membership Card; and (3) pay in full any unpaid dues or indebtedness incurred prior to the cancellation date. Crunch shall accept cancellation of a membership by the Buyer or the Buyer's estate no later than three business days after receiving notice of the cancellation. Cancelling members will receive temporary authorization, providing access to the club through the termination date. No further charges will be incurred if last month's dues were paid at the execution of this Agreement; provided, however that any scheduled payments within the 3-day period after Crunch has received your request for cancellation and when a membership is still in effect, will be charged. Furthermore, if the Agreement was entered into online, Member may cancel the Agreement online using the contact us link at www.crunch.com. Additional information about cancelling is available at www.crunch.com and by contacting Member Services at crunchms@crunch.com. Please call 800-547-1743 for all billing inquiries.

(4.4) Refunds, if applicable, shall be made within ten (10) business days of receipt of notice of cancellation. If you have any questions regarding the Agreement or these Terms and Conditions please contact Crunch Member Services at Crunch at crunchms@crunch.com.

Relax & Recover Plus, (AKA R&R Plus) Release of Liability Waiver

The R&R Plus area consists of equipment and services ("Treatments"), designed to promote physical recovery and improved physical wellbeing. Services may include, but are not limited to: Trainer Assisted Stretching, Percussive Therapy (defined below), Zero Gravity Chairs, Compression Therapy (defined below) and localized CryoTherapy, and Red Light Therapy. Equipment may include, but is not limited to: Hyperice Hypervolt, Hypersphere, Wave Roller, and the Vyper 3 Vibrating Massager (together, "Percussive Therapy"), or Recovery Air Pro Compression system and Normatec Pulse Technology (together, "Compression Therapy"), or other products manufactured or sourced by Hyperice or any other company offering similar equipment (all of the above listed services and equipment are referred to collectively as, the "Recovery Therapies"). All of the equipment and services within the R&R Plus area are provided for the purpose of promoting physical recovery, improved flexibility, reduced muscular tension, and enhanced relaxation. R&R Plus services require physical contact with a trainer to administer the Treatments and/or set up the equipment. All Treatments are performed in an open environment with no privacy. The following waiver and my signature on the Membership Agreement constitute my representation, acknowledgment and agreement that I have read, understand, and fully agree to the following:

Percussive and Pneumatic Compression Therapy General Safety Instructions and Contraindications

- I understand and acknowledge that risks of the Recovery Therapies include blood clots, fluctuations in blood pressure, and activation of some viral conditions (cold sores, etc.) due to stimulation of the immune system. There are circumstances where the potential risks may outweigh the benefits and I have been advised by Crunch to consult a medical professional before using any Recovery Therapy device.
- Percussive Therapy and Compression Therapy are not intended for young children or expectant mothers. If you are, or may be, pregnant, you shall not participate in Percussive and Compression Therapies.
- Do not use the Pneumatic Compression system over insensitive or numb areas, or in the presence of poor circulation.
- The Pneumatic Compression system should not be used over swollen or inflamed areas, skin eruptions or other wounds, infections, or tumor sites.
- Do not use the Pneumatic Compression system in the presence of unexplained calf pain.
- Only the attachments of the device should make perpendicular contact with the skin or area you are treating (vs. device arm/other parts).
- Do not use the device at an angle that puts the percussive arm of the device in contact with the skin.
- Do not use the device on your face, groin area, spine, above your neck or on open wounds.
- In the event that any Treatment is made available for self-administered use, please refer to the manufacturer How to Use Guides/Instruction Manuals for details on proper use of each device.
- Where appropriate or if you have any concerns, seek the advice of a medical professional.

Red Light Therapy General Safety Instructions, Warnings, and Contraindications

Overexposure to Red Light devices can cause burns and injury to the skin and eyes, premature aging of the skin, and allergic reactions. Overexposure to Red Light radiation can reduce immunity, making your body less able to fight infection. It can also worsen existing medical conditions.

I will not exceed the manufacturer's maximum exposure time when using a Red Light device.

A combination of Red Light radiation and certain foods, cosmetics, or medications can increase sensitivity to Red Light radiation. This is called "photosensitivity."

I am aware that the use of Red Light radiation is not advised when eating certain foods or when using certain cosmetics or medications. I will consult a physician before using a Red Light device if I am using photosensitive medications or have a history of skin problems or if I believe I am especially sensitive to Red Light.

Red Light Warnings:

- Failure to use the eye protection provided to Member by the facility for an additional cost may result in damage to the eyes.
- Overexposure to Red Light radiation causes burns. Sessions are limited in time to minimize the potential for such adverse effects from overexposure.
- Abnormal skin sensitivity or burning may be caused by reactions of Red Light radiation to certain foods; cosmetics; or medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, or birth control pills.
- Any person taking a prescription or over-the-counter drug should consult a physician before using a Red Light device.

Localized Cryotherapy General Safety Instructions and Contraindications

Localized Cryotherapy is a treatment that applies extreme cold air flow to a localized body part, which stimulates oxygenated blood flow, promotes the reduction of inflammation, and increases blood flow to injured or sore muscles and joints. Treatments are localized to areas such as knees, shoulders, elbows, wrist, back, face and may be used for mild muscle soreness or strains. The primary risk with using Localized Cryotherapy is related to over exposure of cold to any area for too long, which is why treatments are extremely short and consist of 1 to 3 minutes sessions per treatment site. Side effects may include; burning, skin irritation, pruritus, pain, erythema, and blister formation. Localized Cryotherapy should not be used on overly swollen

or inflamed areas, skin eruptions or other wounds, infections, or tumor sites. Treatment to the face should only be done using the proper face attachment for no longer than a 2- minute session. I understand that perspiration or wet skin will increase the chances of side effects.

Specific Risk Considerations. I will not participate in the Recovery Therapies if I have or may have any of the following conditions:

- Pregnancy;
- Stage 2 Hypertension (BP> 160/100) according to American Heart Association;
- Acute or recent myocardial infarction/congestive cardiac failure, unstable angina pectoris, arrhythmia; symptomatic cardiovascular disease, cardiac pacemaker, peripheral arterial occlusive disease, or any heart disease;
- Acute or recent cerebrovascular accident, uncontrolled seizures, Raynaud's Syndrome, fever, or wounds, lesions or tumors at or near the site of application;
- Bone fractures or dislocations at or near the site of application;
- Acute pulmonary edema, respiratory ailments or impairments, or other symptomatic lung disorders;
- Acute thrombophlebitis, venous thrombosis, episodes of pulmonary embolism, or other bleeding disorders;
- Severe anemia, infection, cold, allergy, known or obvious symptoms of or risk factors for a highly communicable disease (i.e. COVID-19);
- Abnormal sensations (e.g., numbness);
- Recent injury or surgery;
- Less than 18 years of age (parental consent to session needed); or
- Acute kidney and urinary tract diseases.

If I have any other injury, illness or medical condition, I will consult with my physician prior to participating in the Recovery Therapies.

Waiver of Liability, Assumption of Risk and Hold Harmless Agreement

In consideration of using and as a condition of my participation in the Recovery Therapies, I understand and have voluntarily chosen to participate in such activities with full knowledge of the risks and hazards described in the above and the release set forth below. In consideration of my participation, I acknowledge, understand and agree that the Recovery Therapies may be strenuous and/or present an inherent risk of personal injury. I am responsible for consulting with my physician and ensuring that I am medically fit prior to participating. I represent and warrant that I am in good health, medically fit, and have no disability, impairment, injury, disease, known or suspected health conditions, or ailment preventing me from engaging in the Recovery Therapies, including but not limited to preexisting injuries, illness or pregnancy, respiratory ailments or impairments, known or obvious symptoms or risk factors for a highly communicable disease (i.e. COVID-19) that prohibit or limit my participation in the Recovery Therapies in any manner, and am not under the influence of alcohol or drugs. Furthermore, I represent that I have not been instructed by any physician not to participate in the Recovery Therapies. At all times during my participation, I will properly follow all recommended instructions and procedures pertaining to the Recovery Therapies. While instructions and procedures may reduce the inherent risk of the Recovery Therapies, I understand that a substantial risk of personal injury remain, and therefore agree as follows:

- a. On behalf of myself, my spouse, children (including any of which I am guardian), heirs, personal representatives, executors, administrators, agents, and assigns and anyone claiming by or through me or any of the foregoing ("Releasors"), I hereby: (i) understand and voluntarily accept and assume all such risks, both known and unknown, and (ii) agree to fully and completely release, waive, discharge, hold harmless, defend and indemnify Crunch, LLC, ("Crunch"), its affiliates, any Crunch franchisee, and their respective members, officers, managers, directors, owners, agents, independent contractors, and employees (hereinafter referred to as "Releasees") from any and all claims, demands, liabilities, losses, injuries, personal injuries, property damage, wrongful death, loss of services, damages, actions or causes of action, present or future, whatsoever arising directly or indirectly with the Recovery Therapies, equipment, products, machinery and/or facility, or services offered or provided by or through Crunch, the negligence of the Releasees or anyone on Crunch's behalf (including the Releasees), or any equipment, machinery and/or facilities of any of the Releasees, except if caused by the willful misconduct or gross negligence of any of the Releasees. Further, I understand and acknowledge that Crunch does not manufacture fitness or other equipment that are provided at its facilities, but purchases and/or leases equipment. I understand and acknowledge that Crunch is providing access to equipment and may not be held liable for defective products. I have read, understand and voluntarily sign this document and knowingly waive any rights against, and fully and completely release the Releasees from any such claims, demands, injuries, personal injuries, property damage, wrongful death, loss of services, damages, actions and causes of action.
- b. I hereby confirm that no warranty or guarantee, or other assurance, has been made to me covering the results of any of the services, products or equipment offered for use by Crunch, including but not limited to medical results that can or may be obtained through use of any Crunch facility, and Crunch cannot and does not warrant that such facility is free from communicable diseases or risk of injury. Crunch has neither suggested, nor will it suggest any medical treatment to Members and Guests at its facilities. Only licensed medical professionals are qualified to give medical advice. I hereby hold the Releasees harmless from all liabilities for injury or damage that may occur to me. I fully understand the administration of the Recovery Therapies, including possible adverse reactions, side effects, or other possible complications. I voluntarily assume full responsibility for any risks or loss, property damage or personal injury that may be sustained, or any loss or damage to property as a result of being engaged in such activities.
- c. I understand that the Releasees will not be responsible for any medical costs associated with any injury.
- d. I understand that the Recovery Therapies should not be construed as a substitute for medical examination, diagnosis, or treatment and that I should see a physician or other qualified medical specialist for any mental or physical ailment.
- e. I understand that the Recovery Therapies technicians are not qualified to perform skeletal adjustments, diagnose and/or prescribe, and that nothing said in the course of the session should be construed as such. Because Recovery Therapies is contraindicated under certain conditions, I affirm that I have stated all my known medical conditions and answered all questions honestly. I agree to keep Crunch updated as to any changes in my medical profile and understand that there shall be no liability of any Releasees' part should I forget to do so.
- f. I have read the instructions for proper use of any of the facilities and equipment and do so at my own risk.

(4.5) BY SIGNING THE MEMBERSHIP AGREEMENT, I ACKNOWLEDGE AND REPRESENT THAT I HAVE READ AND UNDERSTAND THIS DOCUMENT IN ITS ENTIRETY, INCLUDING THE WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT, I AM AT LEAST EIGHTEEN (18) YEARS OF AGE AND FULLY COMPETENT; I HAVE GIVEN UP CONSIDERABLE FUTURE LEGAL RIGHTS; AND I EXECUTE THE MEMBERSHIP AGREEMENT FREELY AND VOLUNTARILY, WITHOUT INDUCEMENT, PROMISE OR GUARANTEE BEING COMMUNICATED TO ME. FURTHERMORE, I AGREE THAT I WILL COMPLY WITH ALL INSTRUCTIONS ON THE USE OF ALL EQUIPMENT AND THAT I AM USING SUCH EQUIPMENT AND OBTAINING ANY SERVICES AT MY OWN RISK. I AGREE TO USE ALL SESSIONS WITHIN THE TERMS OF THE CONTRACT DATES.