



## **Crunch Buffalo Membership Terms and Agreement**

Crunch, LLC would like to keep you updated on club announcements! By checking this box, you agree to receive automatically dialed text messages, including marketing messages, from Crunch, LLC at the phone number(s) you have listed above. You are not required to agree to receive these messages as a condition of becoming a member or purchasing any property, goods, or services. Message and data rates may apply. You hereby confirm that checking this box creates an electronic signature with the same effect as a handwritten signature. You can opt out at any time by responding STOP to any text message you receive from Crunch, LLC or emailing Crunch, LLC at [crunchms@crunch.com](mailto:crunchms@crunch.com).

**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 due and payable each year on the 15<sup>th</sup> day of the 3<sup>rd</sup> month after your membership enrollment date (and each subsequent anniversary of such 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, 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 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 non-scheduled incidental charge is deducted from my account by EFT, if applicable. If there is any change in my account information for this payment authorization, I will promptly notify Crunch, LLC in writing or update my account information on the Crunch website member portal. This EFT 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 3 days from this date by written notification to: Crunch, LLC Attn. Member Services, Old Chelsea Station, PO Box 1918, New York, NY 10011, by certified or registered mail or hand deliver to the club facility.

### **ADDITIONAL RIGHTS TO CANCELLATION:**

You may cancel this agreement upon written notice, sent by certified or registered mail, 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 six 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, LLC, or an affiliated Crunch Fitness 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.

All moneys paid pursuant to such contract cancelled for the reasons contained in this subdivision must be refunded within fifteen 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 fifteen days.

Notwithstanding anything in this agreement, you may also cancel by contacting our Member Services Department at [crunchms@crunch.com](mailto:crunchms@crunch.com).

You are responsible for all services prior to termination and there may be a \$25 fee assessed to any member who cancels his or her membership for any of the above four reasons before the end of the first 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, LLC (the "Agreement"), the Member agrees to the following Terms and Conditions ("Terms and Conditions"), including without limitation the arbitration provisions set forth in Section 3.21:

#### **ADDITIONAL MEMBERSHIP AGREEMENT TERMS**

##### **(1) MEMBERSHIP PAYMENTS 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 designated above during business hours. 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 the facility and included in your selected membership type.

**(1.2) Rules, Regulations and Schedules.** Member agrees to abide by the rules, regulations and schedules of Crunch, LLC, which may be posted at a facility or issued orally, and which may be amended from time to time at Crunch, LLC's sole discretion. Upon joining, Member and/or Buyer must pay the appropriate initial charges. At the sole discretion of Crunch, LLC, a Member's membership may be revoked or suspended at any time if in the judgment of Crunch, LLC: (a) Member consistently fails to observe the Rules and Regulations, (b) has otherwise behaved in a manner contrary to the best interests of Crunch, LLC or any of Crunch, LLC's Members, (c) Member has instituted any type of legal action against Crunch, LLC, including but not limited to civil actions, arbitrations and/or mediations, and/or (d) Crunch, LLC 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, LLC'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, LLC.

**(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 Fitness facilities. Dues are for the period stated in the Agreement.

**(1.4) Initiation Fee.** There may be a one-time initiation fee which Member and/or Buyer shall be required to pay upon execution of the agreement and acceptance of the Terms and Conditions with Crunch, LLC or as otherwise agreed to by Crunch, LLC. This fee will change from time to time at Crunch, LLC's discretion. This fee is nonrefundable. Resignation from Crunch, LLC shall not terminate the obligation to pay the initiation fee in full. There will be no further initiation fee 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, LLC may adjust monthly dues and the Annual Fee upon giving Members thirty (30) days' prior notice, posted in a Crunch Fitness facility, sent by email to Member's email address on file with Crunch, LLC, and/or sent by mail to Member or Buyer. Except as otherwise set forth herein, Crunch, LLC may adjust any fees at any time at its sole discretion. Crunch, LLC has the right to add to the monthly Membership dues any tax imposed by the government.

**(1.6) Form of Payment.** Monthly Dues, Annual Fee, 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, LLC facility, sent by email to Member's email address on file with Crunch, LLC, 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, LLC by Member and/or Buyer is returned, rejected or dishonored, Crunch, LLC 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, LLC in any subsequent month.

**(1.8) Limited Memberships.** Memberships may be limited so that Members may have reasonable access to Crunch Fitness facilities. It is to be expected that there may be occasional delays, especially during peak hours, in using the fitness equipment; or that Members may not always be able to attend preferred exercise classes. The availability of classes and equipment are subject to demand 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, LLC for collection. The renewal fee for paid in full annual memberships must be paid by 12:00 midnight on the anniversary date of the annual membership or Member's privileges to use Crunch Fitness facilities may be suspended and a new initiation fee will be required. Crunch, LLC 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, LLC, 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 processing charge, plus the difference, if any, in initiation fee and monthly membership dues. No refund of initiation fees will be made by Crunch, LLC.

**(1.13) Change of Membership Location.** A Member who has a BASE (as defined in Section 3.9) or similar type membership may change his or her membership to another Crunch Fitness 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, LLC from time to time without notice to Member.

**(1.14) Freeze Policy.** (a) Medical: If Member is medically unable to use the Crunch Fitness 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, LLC 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 Member's local Crunch Fitness facility. 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, LLC, its affiliates, agents and employees against any and all liability incurred by such Member during his or her use of any and all Crunch Fitness facilities, except for liability resulting from the negligence, gross negligence, or willful misconduct of Crunch, LLC, its affiliates, agents or employees.

**(2) MEMBER RISK.** Member and Member's guests shall hold Crunch, LLC harmless from any illness, loss, theft, cost, claim, injury, damage or liability ("Damages") incurred as a result of the use of a Crunch Fitness facility and any other membership activities, except such Damages which result from the willful misconduct, gross negligence, or negligence of Crunch, LLC, its affiliates, agents or employees.

**(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. Member assumes full responsibility for his or her use of a Crunch Fitness facility and shall indemnify Crunch, LLC its affiliates, agents and employees, 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, 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, LLC has made no claims as to medical results that can or may be obtained through use of any Crunch Fitness facility and cannot and does not warrant that such facility is free from communicable diseases. Crunch, LLC 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, LLC employee unless such advice has been verified by Member's licensed professional physician. Member represents that there is no medical or physical conditions or known symptoms or risk factors that would preclude the use of Crunch Fitness' facilities and each Member further represents that he or she has not been instructed by any physician not to use Crunch Fitness' facility 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 the proper and safe use of all equipment.

**(2.4) Activity Risk.** 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 facilities and release, hold Crunch, LLC harmless,

discharge and absolve Crunch, LLC, its agents and employees from any and all Damages or responsibility except if such accident or injury is the result of the willful misconduct or gross negligence of Crunch, LLC, its affiliates, agents or employees.

**(2.5) Loss of Property.** Member and Member's guests are urged not to bring valuables onto the premises of a Crunch Fitness facility. Crunch, LLC 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 Crunch, LLC's rules and regulations and any amendments and/or modifications thereto which may be reasonably made from time to time by Crunch, LLC at Crunch, LLC's sole discretion.

**(3.2) Proof of Membership.** Member shall receive one membership card (included with Member's membership) (the "Membership Card") from Crunch, LLC and must present it to the reception desk personnel each time Member enters a Crunch Fitness 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, LLC 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 Fitness' 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.** Lockers may be provided solely for the benefit and convenience of Crunch, LLC members. Crunch, LLC will remove any articles left in a locker overnight. Member must provide his or her own lock and should not leave any valuables in his or her locker.

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

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

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

**(3.7) Independent Contractors.** From time to time, Crunch, LLC may make the services of independent contractors available to Member and or Member's guests. Crunch, LLC does not warrant or guarantee 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.

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

**(3.9) Reciprocity and Use Privileges.** "Peak" memberships allow "BASE" access to all Crunch Fitness locations, although home facility must be primary facility of use and in close proximity to permanent home address. "BASE" memberships allow access to only one designated Crunch Fitness location. From time to time, other membership plans may be offered; please ask Crunch Fitness management for details.

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

**(3.11) Change in Membership Information.** Member must promptly notify Crunch, LLC in writing of any changes in his or her billing information, address or telephone number. Notwithstanding anything else contained herein, all communications from Crunch, LLC 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, LLC at the time of the mailing.

**(3.12) Smoking.** Smoking is prohibited at all times in all Crunch Fitness facilities.

**(3.13) Change In Facilities and Operating Hours.** As a result of repair, maintenance or special occasions, or due to health and safety concerns, Crunch, LLC may be required to restrict the use or temporarily close one or more of Crunch Fitness facilities or halt or modify a Crunch Fitness 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 Fitness hours of operation may be modified from time to time without prior notice to Member. Crunch, LLC reserves the right to change the facility 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, LLC's sole discretion.

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

**(3.15) Closing of Crunch Fitness 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 health and safety 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 Fitness facilities may be closed for holidays and may be closed for two weeks in the summer for renovations. Crunch, LLC may also offer members the use of other conveniently located Crunch Fitness facilities during the period of unavailability.

**(3.16) 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, LLC reserves the right to: (a) freeze memberships and add the lost time once services resume; (b) transfer the member to another similar Crunch Fitness facility within a five-mile radius where available; or (c) provide goods and services of equal or greater value as solely determined by Crunch, LLC 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 Fitness facility, Member's obligations under the Agreement and these Terms and Conditions will be suspended until such time as use of the facility can be resumed. Obligation for contractual dues will otherwise not be affected unless a Crunch Fitness facility cannot reopen with one year of the interruption of service.

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

**(3.18) 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 Fitness 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, LLC (at Crunch, LLC's sole discretion) received by the Fitness facility. Some children's programs require fees to be paid in advance. Crunch, LLC reserves the right to discontinue use by any child who is unsupervised, or whose behavior is offensive or disruptive.

**(3.19) Group Exercise Policies.** Each class is limited to a set number of participants and social distancing policies that may apply. Members should not enter a class late or leave a class early 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. Crunch, LLC reserves 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 and length of classes. Crunch, LLC reserves the right to change group fitness policies when necessary and require advanced reservations for heavily attended classes. Reservations may be released within ten (10) minutes prior to the scheduled class time and Member may enter on a walk-in basis provided there are openings in the class. Member's attending a class shall, in addition to the Terms and Conditions, follow any rules promulgated by such class' instructors. "BASE" members must pay a \$5 fee to enter a class.

**(3.20) Personal Training.** In addition to these Terms and Conditions, any and all personal training provided by Crunch, LLC shall be pursuant to any additional terms and conditions set forth in a separate personal training contract entered into by a Member and Crunch, LLC. Use of personal trainers not approved by Crunch, LLC is prohibited at all Crunch Fitness facilities. Member may not train other members or guests, conduct business activity or solicit any business at any Crunch Fitness 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 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.

**(3.21) Dispute Resolution and Arbitration.** At the election of either the Member or Buyer ("you") or Crunch, LLC, including Crunch, LLC'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 Fitness membership or use of Crunch Fitness 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](http://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.

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, OLD CHELSEA STATION, PO BOX 1918, NEW YORK, NY 10011 WITHIN 90 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.

**(3.22) Entire Agreement.** The Agreement, these Terms and Conditions, and all rules and regulations of Crunch, LLC, as revised from time to time, constitute the entire and exclusive agreement between Crunch, LLC 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, LLC 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, LLC or any assignee of the Agreement may modify the Agreement at any time as necessary to comply with changes in applicable law. Crunch, LLC can void the Agreement if it is not completed by a Crunch, LLC 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, LLC employees are not authorized to make any changes written and/or verbal, additions or modifications to this Agreement.**

**(3.23) 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.

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

**(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 a letter by certified or registered mail to the following address: Crunch Fitness Member Services, Old Chelsea Station, PO Box 1918, New York, NY 10011. 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 Fitness facility, Member should be sure to receive a signed statement from a Crunch Fitness 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.

**(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, LLC 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 six (6) 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 Fitness 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 thirty (30) 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 to the address provided in Section 4.1.1. The best way to cancel is by keeping a photocopy of the cancellation and sending the cancellation by registered or certified mail or statutory overnight delivery, return receipt requested to Crunch, LLC at the address provide in Section 4.1.1.

**(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 Fitness 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 dollar (\$25) fee will be assessed.

**(4.2)** All paperwork is deemed a request until a Crunch, LLC 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 original term, Member must: (1) complete a Request for Cancellation Form at least thirty (30) days prior to their next bill date; (2) relinquish Membership Card; and (3) pay in full any unpaid dues or indebtedness incurred prior to the cancellation date. 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 was paid at the execution of this agreement. Additional information about cancelling is available at [www.crunch.com](http://www.crunch.com) and by contacting Member Services at [crunchms@crunch.com](mailto:crunchms@crunch.com). Please call 646-248-5018 for all billing inquiries.

**(4.4) Refunds,** if applicable, shall be made within fifteen (15) 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 [crunchms@crunch.com](mailto:crunchms@crunch.com).