



## REFERRAL/CAREGIVER AGREEMENT

Crunch Care, Inc.  
8895 Towne Centre Drive  
Suite 105-293  
San Diego, CA 92122

This Referral/Caregiver Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 2009 between Crunch Care, Inc., a California corporation, (“Crunch Care” or the “Company”) and the Referral/Caregiver named below (“Referral”).

Referral understands and agrees that the terms of this Agreement are a material part of Referral’s association with Crunch Care. Accordingly, in consideration for association with Crunch Care, Referral and Crunch Care agree as follows:

### 1. Confidential, Proprietary, and Trade Secret Information

Referral understands and agrees that he or she may have access to Crunch Care’s confidential, proprietary and or trade secret information during the course of association with Crunch Care. This confidential, proprietary and or trade secret information includes but is not limited to information about algorithms, application programming interfaces, protocols, computer software, designs, technology, ideas, processes, data, techniques, improvements, inventions, works of authorship, business and product development plans, personnel and payroll information, customer lists, blueprints, drawings, photographs, charts, graphs, notebooks, media or printouts, prototypes, models, client information, company policies and procedures, pricing or other financial information, computer files and programs, legal opinions or memoranda, marketing strategies, and other information concerning Crunch Care’s actual or potential business, research or development, or which is received in confidence by or for Crunch Care from any other person or entity. Referral understands and agrees that his or her association creates a relationship of confidence and trust between Referral and Crunch Care with respect to such confidential, proprietary and or trade secret information.

These types of information, and any information not generally known outside Crunch Care and that would be valuable to a competitor, are valuable, confidential and the exclusive property of Crunch Care. Referral understands and agrees not to use or disclose this information for Referral’s own or another’s benefit, either during or after Referral’s association with Crunch Care. This prohibition includes but is not limited to the requirement that Referral may not use Crunch Care confidential, proprietary or trade secret information to solicit Crunch Care clients, placements or Referrals during or after Referral’s association with Crunch Care.

Referral also understands and agrees not to use or disclose any confidential, proprietary or trade secret information of any of Referral’s former or concurrent employers in Referral’s performance of Referral’s work with Crunch Care. Crunch Care strictly prohibits any such use or disclosure of other entities’ confidential, proprietary or trade secret information.

### 2. Intellectual Property

All confidential, proprietary and trade secret information and all right, title and interest in and to patents, patent rights, copyright rights, mask work rights, trade secret rights, and other intellectual property and proprietary rights anywhere in the world (collectively “Rights”) in connection therewith shall be the sole property of the Company. To the maximum extent permitted by law, Referral hereby assigns to the Company any Rights Referral may have or acquire in such confidential, proprietary and or trade secret information. At all times, both during Referral’s association with the Company and after its termination, Referral will keep in confidence and trust and will not use or disclose any Crunch Care confidential, proprietary or trade secret information or anything relating to it without the prior written consent of an officer of the Company except as

may be necessary and appropriate in the ordinary course of performing Referral's duties to the Company.

Referral agrees to promptly disclose in writing to his or her persons designated by the Company, all "Inventions," (which term includes improvements, inventions (whether or not patentable), works of authorship, trade secrets, technology, algorithms, computer software, protocols, formulas, compositions, ideas, designs, processes, techniques, know-how and data) made or conceived or reduced to practice or developed by Referral (in whole or in part, either alone or jointly with others) during the term of Referral's association with Crunch Care. Referral also agrees to disclose to the Company Inventions conceived, reduced to practice, or developed by Referral within six months of the termination of Referral's association with the Company; such disclosures shall be received by the Company in confidence, to the extent they are not assigned pursuant to this Agreement, and do not extend such assignment. Referral agrees not to disclose Inventions covered by this Agreement to any person outside the Company unless requested to do so by management personnel of the Company.

Referral agrees that all Inventions which Referral makes, conceives, reduces to practice or develops (in whole or in part, either alone or jointly with others) during his or her association shall be the sole property of the Company to the maximum extent permitted by Section 2870 et seq. of the California Labor Code (a copy of Section 2870 is attached hereto), or any successor statutes thereto, and Referral hereby assigns such Inventions and all Rights therein to the Company. No assignment in this Agreement shall extend to inventions, the assignment of which is prohibited by Labor Code Section 2870 or any successor statutes thereto, or any other applicable laws or regulations. The Company shall be the sole owner of all Rights in connection with any permissible assignment.

Referral agrees to perform, during and after his or her association, all acts deemed necessary or desirable by the Company to permit and assist it, at the Company's expense, in evidencing, perfecting, obtaining, maintaining, defending and enforcing Rights and/or Referral's assignment with respect to such Inventions in any and all countries. Such acts may include, without limitation, execution of documents and assistance or cooperation in legal proceedings. Referral hereby irrevocably designates and appoints the Company and its duly authorized officers and agents, as Referral's agents and attorneys-in-fact, with full power of substitution, to act for and in Referral's behalf and instead of Referral, to execute and file any documents and to do all other lawfully permitted acts to further the above purposes with the same legal force and effect as if executed by Referral.

Any assignment of copyright hereunder includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as "moral rights" (collectively "Moral Rights"). To the extent such Moral Rights cannot be assigned under applicable law and to the extent the following is allowed by the laws in the various countries where Moral Rights exist, to the maximum extent permitted by law, Referral hereby waives such Moral Rights and consents to any action of the Company that would violate such Moral Rights in the absence of such consent. Referral agrees to confirm any such waivers and consents from time to time as requested by the Company.

Referral has attached hereto a complete list of all existing Inventions to which Referral claims ownership as of the date of this Agreement that Referral desires to specifically clarify are not subject to this Agreement, and Referral acknowledges and agrees that such list is complete. If no such list is attached to this Agreement, Referral represents that Referral has no such Inventions at the time of signing this Agreement.

### **3. Non-Solicitation of Referrals and Clients**

During Referral's association with Crunch Care and for one year thereafter, Referral agrees that to the maximum extent permitted by law, he or she shall not solicit, entice, encourage or induce any person who is or was a Crunch Care Referral during the time of Referral's association with Crunch Care, to become employed by or associated with any person, firm or corporation other than Crunch Care. Referral further agrees that during his or her association with Crunch Care and for a period of one year thereafter, to the maximum extent permitted by law, **Referral will not solicit Crunch Care clients with whom Referral worked for as Assigned Referral (temporary) or interviewed with other than if hired and communicated to Crunch Care as a**



**long term Direct Referral. Any communication with a Crunch Care client unless referred formally as a Direct Referral must be communicated to Crunch Care in writing immediately.**

Referral understands and agrees that if Referral violates this Agreement, to the maximum extent permitted by law, Crunch Care has the right to collect and Referral agrees to pay Crunch Care for any lost fees and or any reasonable loss of future compensation to Crunch Care as a result of Referral's conduct and or violation(s) of this Agreement.

Referral understands and agrees that any violations of this Agreement may entitle Crunch Care to pursue any and all legal and equitable remedies against Referral, including but not limited to injunctive relief to enforce the Agreement's terms or prohibit violations of the Agreement.

#### **4. At-Will Association Via Crunch Care Client**

Referral understands and agrees that this Agreement is not an employment contract. **Rather, Referral understands and agrees that his or her association acceptance with any Crunch Care Client is at-will. Either Crunch Care Client or Referral can terminate Referral's association with Crunch Care Client family with or without cause, and with or without notice, at any time.**

#### **5. Referral Employee of Client**

Referral understands and agrees that work schedule and the method, manner and means of employment, and any other terms and conditions of employment, will be determined by Crunch Care client and Referral. Crunch Care will not be responsible for the Referral's direction, supervision, control or compensation, and Crunch Care is not the Referral's employer or co-employer with Crunch Care client. Rather, client will be solely responsible for the Referral's direction, supervision, control and compensation, and client and Referral both understand and agree that it is the Referral's employer. Accordingly, client and Referral understand and agree that they will be responsible for all employer related taxes, withholdings, obligations and requirements according to applicable law.

#### **6. Avoiding Conflicts of Interest**

Referral understands and agrees that he or she owes a duty of loyalty to Crunch Care in performing work in representation of the Company. Accordingly, during association with Crunch Care, Referral agrees to avoid any actual, perceived or potential conflicts of interest, including but not limited to starting his or her own business to compete with Crunch Care; working with or advising a competing business or vendor of Crunch Care; or holding an ownership interest in any entity (except publicly traded companies) that does or seeks to do business with Crunch Care, without first disclosing and receiving express written permission from Crunch Care management. Crunch Care, in its sole discretion, will determine what constitutes an actual, perceived or potential conflict of interest, and Referrals are encouraged to contact Crunch Care management with any questions in this area.

#### **7. Termination of Association and Return of Crunch Care Property**

Upon Referral's termination of association with Crunch Care or at any time upon management's request, Referral agrees to return all Crunch Care property – in whatever form, medium or format (paper, electronic or otherwise) – including but not limited to all client or other files, memoranda, documents, records, client contact information, databases, spreadsheets, computer programs, passwords, copies or notes of the aforementioned, credit cards, keys, and identification cards in his or her possession or control.

Referral also agrees not to retain copies or notes of such property or information. Specifically, Referral agrees to destroy and permanently delete all copies or notes (in whatever format) of Crunch Care confidential, proprietary or trade secret information in his or her personal possession, including but not limited to such information on Referral's personal computers, PDA's or other electronic equipment.

Additionally, upon the termination of association with Crunch Care, Referral agrees to clear all expense accounts and repay everything owed to Crunch Care.

#### **8. Survival**

Referral understands and agrees that where applicable in this Agreement, Referral's obligations shall continue in effect after termination of Referral's association, regardless of the reason or reasons for termination of association, and whether such is voluntary or involuntary on Referral's part, and that the Company is entitled to communicate Referral's obligations under this Agreement to any further employer or potential employer of Referral.

#### **9. Disclaimer/Waiver/Hold Harmless/Limitation of Liability**

Crunch Care assumes no liability or responsibility for, and makes no representations or warranties about, any information, material, errors, omissions, or services it provides. Referral understands and agrees that Referral's use of Crunch Care's services and association with Crunch Care is at Referral's own risk. Except as specified herein, Crunch Care does not provide and specifically disclaims any express or implied guarantees or warranties to Referral.

Additionally, Crunch Care does not employ or exercise control or discretion over clients and disclaims all responsibilities for clients' conduct or omissions.

To the maximum extent allowed by law, Referral hereby waives and releases Crunch Care and its owners, agents, Referrals, officers, directors, attorneys, and representatives, and all of their affiliated entities and representatives, from all liability, including but not limited to liability arising from negligence or the actions of any third party (including but not limited to clients, potential clients, or referrals), arising under law or otherwise.

This Agreement does not govern claims that cannot be released by private agreement or that cannot lawfully be waived. In addition, this Agreement does not limit either party's right, where applicable, to file, cooperate with or participate in an investigative proceeding of any governmental entity, or to file charges that do not seek personal relief for released claims with any governmental entity.

Additionally, to the maximum extent permitted by law, Referral shall indemnify, defend and hold Crunch Care and its owners, agents, Referrals, officers, directors, attorneys, and representatives, and all of their affiliated entities and representatives, harmless against any damages or liability whatsoever arising out of or in any way in connection with Referral's referral to or association or association with Crunch Care's clients, regardless of how, when, or where any damages or liability was incurred.

Finally, in no event shall Referral or Crunch Care and its affiliated entities and representatives, be liable to each other for consequential, incidental, exemplary, punitive, special or indirect damages of any kind. If any exclusion or limitation of damages is not permitted by law, the parties' liability to each other is limited to the maximum extent permitted by law.

#### **10. Miscellaneous**

This Agreement shall be governed by and interpreted according to the laws of the State of California. Any action or proceeding commenced regarding this Agreement shall be brought in San Diego County, California.

The parties enter into this Agreement without reliance upon any statement, representation, promise, inducement, or agreement not expressly contained herein. This Agreement and any attachments and or exhibits constitutes the entire agreement between Crunch Care and Referral and supersedes all prior oral and written agreements between Crunch Care and Referral with respect to the subjects covered in this Agreement. This Agreement shall not be amended or modified except in a mutually agreed upon writing signed by Referral and an authorized representative of Crunch Care.

Referral represents that he or she has carefully read and fully understands the scope and effect of all of the provisions of this Agreement; that Referral has had all such time that he or she desires to consider the Agreement; that Referral had the opportunity to consult with an attorney of his or her own choosing and at his or her own expense to review this Agreement; and that Referral has availed himself or herself of this opportunity to the extent, if any, that Referral wished to do so.



The terms of this Agreement are severable. The invalidity or unenforceability of any provision within this Agreement shall not affect the application of any other provision, provided that the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable. Further, consistent with the purposes of this Agreement, any otherwise invalid provision of this Agreement may be reformed and, as reformed, enforced by any party to this Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original. Such counterparts, when taken together, shall constitute but one Agreement.

Failure or delay on the part of either party to exercise any right, remedy, power or privilege under this Agreement shall not operate as a waiver of any other right, remedy, power or privilege. A waiver, to be effective, must be in writing and must be signed by the party making the waiver. A written waiver of a default shall not operate as a waiver of any other default or of the same type of default on a future occasion.

Neither party shall assign or transfer this Agreement or any interest herein without the prior written consent of the other party.

The rights and remedies provided in this Agreement shall be the sole and exclusive rights of the parties against one another relating to the subject matter of this Agreement.

The section captions contained in this Agreement are for convenience only and do not constitute a part of its terms and provisions.

The parties to this Agreement hereby certify, represent and warrant that they have carefully read this Agreement, that they fully understand its final and binding effect, and that they agree to all of its terms and conditions.

Referral/Caregiver Name Printed

Referral/Caregiver Signature

Date

Crunch Care Inc. By: Stacie Steelman, President/CEO  
8895 Towne Center Drive  
Suite 105  
San Diego, CA 92122

Date