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COURT FILE
NUMBERS

25-2731795

25-2731797
25-2731799

COURT

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE

CALGARY

MATTERS

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED, OF

INTERNATIONAL FITNESS HOLDINGS INC.

INTERNATIONAL FITNESS HOLDINGS LP

WORLD HEALTH NORTH LP

APPLICANTS

INTERNATIONAL FITNESS HOLDINGS INC., INTERNATIONAL
FITNESS HOLDINGS LP and WORLD HEALTH NORTH LP

DOCUMENT

AFFIDAVIT OF PETER MELNYCHUK

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

STIKEMAN ELLIOTT LLP
4300 Bankers Hall West
888 – 3rd Street S.W.
T2P 5C5

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Phone Number: (403) 724-9469 / (416) 869-5623
Email: kfellowes@stikeman.com / lpillon@stikeman.com
Fax Number: (403) 266-9034
File No.: 137923-1006

**Counsel for the Applicants, International Fitness Holdings Inc.,
International Fitness Holdings LP and World Health North LP**

AFFIDAVIT OF PETER MELNYCHUK
Sworn on April 26, 2021

I, Peter Melnychuk, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY THAT:**



COM
April 30, 2021
Justice Mah

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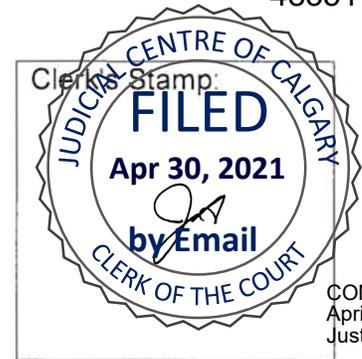
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COURT COURT OF QUEEN'S BENCH OF ALBERTA

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Counsel for the Applicants, International Fitness Holdings Inc., International Fitness Holdings LP and World Health North LP

AFFIDAVIT OF PETER MELNYCHUK
Sworn on April 26, 2021

I, Peter Melnychuk, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am the Chief Executive Officer of International Fitness Holdings Inc. (“**IFH**”) and I am authorized to swear this affidavit on its behalf. I have personal knowledge of the matters and facts herein deposed, except where based on information and belief, in which case I believe the same to be true.
2. On April 23, 2021 (the “**NOI Filing Date**”), IFH, International Fitness Holdings LP (“**IFH LP**”) and World Health North LP (“**WHN LP**”) (collectively, the “**Applicants**”) each filed a Notice of Intention to Make a Proposal (“**NOI**” and collectively, the “**NOIs**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”, and such proceedings, the “**NOI Proceedings**”) and appointed KPMG LLP as its proposal trustee (the “**Proposal Trustee**”). As a result of the filing of the NOIs, all proceedings against the Applicants and their assets were automatically stayed for an initial period of thirty (30) days (i.e. until May 23, 2021) (the “**Stay Period**”). A copy of the NOIs for each of the Applicants is attached hereto as **Exhibit “A”**.
3. For the reasons further described herein, the Applicants hereby seek from this Court an Order, *inter alia*:
 - (a) abridging the time for delivery of this Application and deeming service of this Application to be good and sufficient;
 - (b) extending the Stay Period for an additional eight (8) days from the expiry of the Stay Period (i.e. until May 31, 2021);
 - (c) (i) authorizing IFH to obtain and borrow under a debtor-in-possession credit facility (the “**DIP Facility**”) to permit it to finance its working capital requirements and other general corporate purposes and capital expenditures, and (ii) granting the lender of the DIP Facility a priority charge over IFH’s assets in order to secure the reimbursement of said DIP Facility;
 - (d) granting each of the following professionals a priority charge over the Applicants’ assets to secure the payment of their respective fees and disbursements incurred in connection with these proceedings up to an amount of \$300,000.00: (i) the Proposal Trustee; and (iii) the Proposal Trustee’s counsel (the “**Administration Charge**”); and
 - (e) granting a priority charge over the Applicants’ assets securing the payment of the amounts for which the Applicants may be called upon to indemnify its directors and officers, acting in such capacity during the post-NOI period, up to an amount of \$600,000.00 (the “**D&O Charge**”).

DESCRIPTION OF IFH'S BUSINESS AND BACKGROUND

Company Overview

4. IFH is a privately-owned company incorporated under the Alberta *Business Corporations Act*, RSA 2000, c B-9 in 2014. IFH's head office is located in Calgary, Alberta. IFH is the general partner of the other two Applicants, WHN LP and IFH LP.

5. The Applicants are part of an enterprise which operates fitness clubs in Calgary and Edmonton (the "**IFH Group**"). The Applicants are the primary operating entities of the IFH Group.
6. IFH was created by way of an amalgamation between IFH Acquisition Corp., International Fitness Holdings Inc., and World Health Club, Inc. (the "**Amalgamation**").
7. On August 1, 2014, IFH AC, a predecessor to IFH, entered into a term loan facility with the Canadian Imperial Bank of Commerce ("**CIBC**"), which was to be used to assist with the completion of the Amalgamation and to provide working capital thereafter (the "**CIBC Credit Facility**").
8. In 2018, IFH expanded its footprint in Edmonton by acquiring the assets of World Health Edmonton Inc., with funding provided by the CIBC (the "**World Health Acquisition**").
9. On April 30, 2018, the CIBC Credit Facility was amended and restated to provide an additional \$9,000,000.00 to assist with the completion of the World Health Acquisition, increasing the term commitment to \$47,500,000.00.
10. The CIBC Credit Facility was further amended and restated in January and February of 2019, and most recently in September of 2020, pursuant to which CIBC and TriFit Holdings Limited Partnership, by its general partner Trifit Holdings (GP) Ltd. (collectively, "**TriFit**"), agreed to each lend IFH \$11,500,000.00 (the "**Restated CIBC Credit Facility**"). The purpose of the Restated CIBC Credit Facility was to provide IFH with capital and operational runway to enable the execution of a turnaround strategy focused on recapturing market share, as described below. Attached hereto and marked as **Exhibit "B"** are copies of the Interim Funding Agreement between TriFit, CIBC and IFH dated January 31, 2019, the Third Amended and Restated Credit Agreement dated February 27, 2019, the Amending Agreement to the Restated CIBC Credit Facility dated September 9, 2020, and the Second Amending Agreement to the Restated CIBC Credit Facility dated February 2, 2021.
11. In response to various factors, including a weakened economy in Alberta, increased competition, declining membership, and a dated brand and facilities, IFH obtained additional financing through the Restated CIBC Credit Facility to rebrand the IFH Group's business to target the more active 18 to 34-year-old demographic, make extensive club improvements, diversify service offerings, overhaul its information technology infrastructure, and optimize its real estate portfolio.
12. From the period between January 2019 and June 2020, the IFH Group spent approximately \$8,300,000.00 in upgrades to its facilities and on rebranding efforts.
13. TriFit and CIBC were supportive of the IFH Group's plans to transform its business. However, due to the devastating impact of the COVID-19 pandemic on the IFH Group's operations and revenues, TriFit and CIBC were unable to realize a return on their additional investments.

Operations

14. The IFH Group operates twenty-one (21) fitness centre locations in Edmonton and Calgary under four fitness brands. GYMVMT (ten locations), GYMVMT/HER GYMVMT (one location), HER GYMVMT (seven locations), ClubFit (two locations), Banker's Hall Club (one location), as follows:

Club Name	Location Type	City
Calgary Place	GYMVMT	Calgary
City Centre	GYMVMT	Edmonton
Clareview	GYMVMT	Edmonton
Edgemont	GYMVMT	Calgary
Gateway	GYMVMT	Edmonton
Kensington	GYMVMT	Edmonton
Macleod	GYMVMT	Calgary
Mayfield	GYMVMT	Edmonton
Midnapore	GYMVMT	Calgary
North Hill	GYMVMT	Calgary
Trans Canada Mall	GYMVMT/HER GYMVMT	Calgary
Bay Club	HER GYMVMT	Calgary
Beacon Heights	HER GYMVMT	Calgary
Canyon Meadows	HER GYMVMT	Calgary
Northgate	HER GYMVMT	Edmonton
West Edmonton Mall	HER GYMVMT	Edmonton
Westbrook	HER GYMVMT	Calgary
Whitemud	HER GYMVMT	Edmonton
Glenora	ClubFit	Edmonton
St. Albert Trail	ClubFit	Edmonton
Bankers Hall Club	Bankers Hall Club	Calgary

15. The IFH Group also provides boutique offerings including spin and CrossFit studios branded as TrüRide and PWR X Lab, respectively.
16. In February of 2020, prior to the COVID-19 pandemic, the IFH Group had over 48,000 members, the membership and finances of which are run and presented on a consolidated basis. As of March of 2021, the IFH Group had 34,593 members across its twenty-one locations and approximately 6,000 membership accounts were frozen.
17. Over the three-year period from 2018 to 2020, the IFH Group generated average total revenue and earnings before interest, taxes, depreciation, of \$41.4 million and -\$6.1 million, respectively.

Employees

18. Prior to the onset of the COVID-19 pandemic, the IFH Group employed over 1,200 employees, comprised of over 100 senior leadership and head office staff, over 450 group fitness staff and over 650 club-level employees. Due to the adverse impact of the COVID-19 pandemic on the IFH Group's membership and revenue, and the various government-mandated closures of its facilities, the total number of employees across all levels of employment have reduced to a total number of approximately 700 employees.
19. The IFH Group's salaried employees at head office are paid in advance, while club level hourly rate employees (management and non-management) are paid in arrears. The last payroll for the advance pay cycle was paid on April 23, 2021 for April 16 to 30, 2021 pay period. For club-level employees paid in arrears, their last pay day was on April 23, 2021 for April 1 to 15, 2021 pay period. The next payroll is due to be paid on May 10, 2021 for the period from April 16 to 30, 2021 for employees paid in arrears, and for the period from May 1 to 15, 2021 for employees paid in advance, and will amount to approximately \$536,000.00 inclusive of source deduction obligations. Outstanding employee wages and benefits for the period immediately prior to the filing of the NOIs will be paid by the Applicants, with approval of the Proposal Trustee.
20. The IFH Group provides employees with a standard suite of health and dental benefits, but does not sponsor any pension plans.

Events Preceding the NOIs

21. The rapid onset of the COVID-19 pandemic in February and March of 2020 presented the Applicants with considerable operational challenges given the nature of the fitness industry.
22. Following the Province of Alberta's decision to increase the public risk level of the COVID-19 pandemic, the IFH Group made the difficult decision to close its clubs and lay off a significant number of its staff on March 17, 2020.
23. The closures varied in duration depending on the applicable COVID-19 measures that were in effect in various municipalities. The IFH Group was able to negotiate rent deferral arrangements with certain landlords in response to the forced closures and its inability to continue to operate its locations in the ordinary course following the onset of the pandemic.
24. After shutting down club operations, the IFH Group immediately began implementing strategies designed to mitigate the number of frozen billings and membership cancelations, all of which were aimed at positioning the business for an effective re-opening once the provincial health restrictions were eased, including:
 - (a) Negotiating rent deferral arrangements with its landlords in response to the forced closures of its facilities;

- (b) Offering the IFH Group’s membership base a number of options, including a paid remote fitness program and a loyalty credit program for members who continued their billings while clubs were closed; and
 - (c) Accessing the Canada Emergency Wage Subsidy (“**CEWS**”) program and the Canada Emergency Commercial Rent Assistance program, which provided support for some of the locations leased by the IFH Group with monthly rent obligations of less than \$50,000.00.
- 25. On June 12, 2020, the Province of Alberta announced that fitness clubs were allowed to re-open, and management was able to fully implement new safety procedures and educate staff in order to open clubs to the public on June 26, 2020.
- 26. The IFH Group re-opened its facilities in June of 2020 to reduced membership numbers overall, although there was a slight increase in memberships for younger demographics and at suburban clubs as workers transitioned to more flexible work-from-home arrangements.
- 27. Since the IFH Group re-opened its clubs in June of 2020, there have been varying levels of closure or restrictions on the IFH Group’s operations imposed by the Provincial government in response to increases in the cases of COVID-19 and variants of same.
- 28. In response, the IFH Group made further attempts to renegotiate its leases and to negotiate rent deferrals, including negotiating with certain landlords to either defer or reduce rent due in 2021 by 50%, as well as continuing efforts to reduce staff, streamline operations and explore potential sales opportunities for the business.
- 29. In September of 2020, the Applicants engaged MNP Ltd. (“**MNP**”) to lead a strategic process, including for a possible sale of the IFH Group’s assets, in order to maximize value for all stakeholders, which steps included:
 - (a) Performing analyses and developing a list of potential purchasers of the IFH Group’s assets;
 - (b) Contacting 120 potential purchasers; and
 - (c) Providing non-disclosure agreements, confidential information memorandums and access to an electronic data room to 25 potentially interested parties.
- 30. A total of four parties submitted letters of interest for the purchase of the IFH Group’s assets by the November 11, 2020 deadline (collectively, the “**Interested Parties**”). Negotiations from November 12, 2020 to February 24, 2021 with the Interested Parties yielded only one potential viable transaction involving an arm’s-length third party purchaser (the “**Purchaser**”).

FINANCIAL INFORMATION

31. As mentioned, the onset of the COVID-19 pandemic in February and March of 2020 had an adverse effect on the IFH Group's ability to operate its business in the ordinary course, and as a result, the IFH Group has reported net losses on a consistent basis since February of 2020.
32. The IFH Group's most current unconsolidated comparative income statements are for the fiscal year ended December 31, 2020, and are attached hereto as **Exhibit "C"**, and show that the IFH Group operated at a loss of \$18,778,000.00 in 2020.
33. The financial statements show that the Applicants are insolvent. The IFH Group's current and capital assets as of December 31, 2020 totalled \$22,347,000.00 consisting of cash, accounts receivable, prepaid expenses, deposits, inventory, and fixed assets. IFH had total liabilities of \$118,630,000.00 as at this same date.
34. The Applicants' primary liability relates to the Restated CIBC Credit Facility. IFH is the borrower under the Restated CIBC Credit Facility, with CIBC and TriFit as lenders. IFH LP and WHN LP guaranteed IFH's obligations under the Restated CIBC Credit Facility, and also provided secured share pledges in respect of the same. The Restated CIBC Credit Facility sets out the order of priority for the repayment of the funds advanced to IFH by TriFit and CIBC.
35. The total indebtedness of the Applicants to CIBC and TriFit under the Restated CIBC Credit Facility as of March 31, 2021 totals approximately \$72.9 million.
36. The Applicants are also indebted to unsecured creditors in the total approximate amount of \$40.2 million as of March 31, 2021, comprised of \$5.4 million in rent owing, \$900,000 owing in accounts payables, and approximately \$34.0 million in unsecured subordinated loans advanced by former shareholders, as follows:
 - (a) to 883384 Alberta Ltd. pursuant to the terms of an amended and restated subordination and postponement agreement and an amended and restated promissory note dated February 27, 2019 as between IFH, CIBC and 883384 Alberta Ltd.;
 - (b) to R.A.L. Consulting Ltd. pursuant to the terms of an amended and restated subordination and postponement agreement and an amended and restated promissory note dated February 27, 2019 as between IFH, CIBC and R.A.L. Consulting Ltd.; and
 - (c) to TriFit Holdings Limited Partnership pursuant to the terms of an amended and restated subordination and postponement agreement and an amended and restated promissory notes dated February 27, 2019 as between IFH, CIBC and TriFit Holdings Limited Partnership.
37. There are security interests registered against IFH's assets, including:

- (a) Registrations in favour of CIBC against IFH, IFH LP and WHN LP with respect to all present and after-acquired property of IFH, IFH LP and WHN LP;
- (b) Registrations in favour of CIBC against IFH, IFH LP and WHN LP granting a floating charge over land of IFH, IFH LP and WHN LP;
- (c) A registration in favour of Bankers Hall LP, Bankers Hall GP Inc., BCIMC Realty Corporation and Bankers Hall GP Trust against IFH and IFH LP in respect of the lease of the Bankers Hall Club premises;
- (d) A registration in favour of Summit Acceptance Corp. against IFH and IFH LP in respect of a 2015 Ford Escape;
- (e) A report of seizure of collateral with a value \$122,041.84 seized under landlord distress by Next Generation Properties Ltd. with respect to IFH and IFH LP's property located at its Midnapore facility in Calgary; and
- (f) A report of seizure of collateral with a value \$179,246.38 seized under landlord distress by 1710818 Alberta Ltd. operating as Martello Property Services Inc. with respect to IFH's property located at its Canyon Meadows facility in Calgary.

Attached hereto and marked as **Exhibit "D"** is the Personal Property Registry Search Results Report for the Applicants as of April 23, 2021.

Restructuring Efforts

- 38. Given their significant operating losses, lack of access to additional liquidity, and inability to repay their significant loan obligations, the Applicants sought court protection on the NOI Filing Date, with a view to stabilizing their business operations and enabling them to conclude negotiations with respect to and finalize the asset purchase agreement with the Purchaser (the "**APA**").
- 39. The Applicants have pursued and will continue to pursue activities aimed at restructuring and streamlining their operations, to finalize the APA and to potentially present a Proposal to their creditors, including:
 - (a) Consulting with the Proposal Trustee and its legal advisors on the various cost-saving measures available to the Applicants in the context of a formal restructuring process;
 - (b) Finalizing discussions with the Purchaser in connection with the APA (as described below), which contemplates the sale of substantially all of the Applicant's business on a going concern basis;
 - (c) Finalizing negotiations with First Canadian Cardio-Fitness Clinics Ltd. (the "**Lender**") in connection with an interim financing facility term sheet (the "**DIP Term Sheet**"), to provide financing to IFH to enable the Applicants to continue operations prior to the closing of the APA;

- (d) Working with the Proposal Trustee and counsel to prepare a cash flow projection and to identify issues with respect to their financial condition and the status of their creditors;
- (e) Working with the Purchaser to identify those leases which the Purchaser intends to assume, and liaising with the Purchaser and various landlords regarding new lease agreements for certain fitness locations where the Purchaser intends to carry on business;
- (f) Reducing staff and streamlining operations;
- (g) Reviewing their equipment leases and returning surplus or redundant equipment to their lessors; and
- (h) Continuing to engage with governmental authorities in connection with the CEWS, and the Canada Emergency Rent Subsidy program which only covered approximately 25% of the IFH Group's rent obligations.

DIP FINANCING

- 40. The Applicants also engaged with the Lender to finalize the DIP Facility in accordance with the terms and conditions of DIP Term Sheet, pursuant to which the Lender will provide the Applicants with a secured non-revolving credit facility with a maximum principal amount of \$10,000,000.00, limited to an initial maximum of \$2,000,000.00. The DIP Facility is to be guaranteed and secured by a super-priority charge (the "**DIP Charge**") on all present and after-acquired property of the Applicants, and has an outside maturity date of May 31, 2021. A copy of the DIP Term Sheet is attached hereto as **Exhibit "E"**.
- 41. The DIP Facility will be used, to the extent required, to ensure the Applicants' continued operations by funding the Applicants' working capital and for other general corporate purposes.
- 42. The DIP Facility is critical to maintaining the Applicants' ongoing operations, to afford them an opportunity to finalize and implement the APA for the purpose of maximizing the value of the Applicants' assets.

THE APA

- 43. On April 23, 2021, the Applicants and the arms-length Purchaser entered into the APA with an outside closing date of May 31, 2021, and is conditional on, *inter alia*, Court approval of the DIP Facility and the granting of a Sale Approval Order.
- 44. The Applicants intend on returning to this Court prior to May 31, 2021 to seek approval of the APA.

REASONS TO PERMIT THE REQUESTED ORDERS

DIP Facility and DIP Charge

45. The Applicants are unable to meet their obligations as they become due, and are therefore insolvent. An urgent injection of cash is required for the Applicants to be able to continue operations.
46. The DIP Facility is necessary and constitutes their only feasible path forward in order to permit the sale transaction contemplated by the APA to close.
47. Additionally, the proposed DIP Facility is on commercially reasonable terms, and considering the foregoing factors, the relief sought by the Applicants with respect to the DIP Facility and the related charge is necessary and appropriate in the circumstances.

Administration Charge

48. The participation of the Proposal Trustee and the Proposal Trustee's counsel are essential to the Applicants' restructuring. Accordingly, the Applicants seek a \$300,000.00 Administration Charge which shall affect their assets and secure the payments to be made to the foregoing professionals.

D&O Charge

49. In order to continue to carry on business during the NOI Proceedings, the Applicants require the active and committed involvement and continued participation of its current and future directors and officers, who manage its business, commercial activities and internal affairs of the company (collectively, the "D&Os").
50. Although the Applicants intend to comply with all applicable laws and regulations, including the timely remittance of deductions at source and federal and provincial sales tax, the D&Os are nevertheless concerned about the possibility for their personal liability in the context of the present proceedings.
51. Indeed, the D&Os could be exposed to certain liabilities related to accrued and unpaid or remitted sales taxes, wages and vacation pay, should the Purchaser suspend its funding for any reason.
52. Considering the risk to which the D&Os may be exposed to in assisting the Applicants during the NOI Proceedings, the D&Os require the Applicants to indemnify them for all liabilities which they may incur in the context of their roles after the filing of these proceedings.

- 53. Though the Applicants maintain directors and officers' liability insurance (the "**D&O Insurance**") for the benefit of the D&Os, the amount of the coverage set out in the D&O Insurance may potentially be insufficient to protect the D&Os from all of their potential liability, or subject to certain exclusions.
- 54. The Applicants therefore requests a D&O Charge in the amount of \$600,000.00 over their assets, property and undertaking to indemnify the D&Os in respect of any liability which they may incur over the course of the NOI Proceedings.

Extension of Stay Period

- 55. The Applicants are seeking an extension of the Stay Period to May 31, 2021 to provide sufficient time for the Applicants to finalize and seek approval of the APA, and to close the transaction on or before May 31, 2021, which is the maturity date of the DIP Facility.

CONCLUSIONS

- 56. This Affidavit is sworn in support of the Applicants' Application for an Order approving the DIP Financing, the Administration, DIP and D&O Charges, and extending the Stay Period, and for no other or improper purpose.

SWORN before me in the City of)
 Calgary, in the Province of Alberta, this)
 26th day of April, 2021.)


 _____)
 A Commissioner of Oaths in and for the)
 Province of Alberta)

JAKUB MASLOWSKI
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public


 _____)
PETER MELNYCHUK

This is Exhibit "A" referred to in the Affidavit of Peter Melnychuk,
sworn before me in the City of Calgary,
in the Province of Alberta, on this 26th day of April, 2021



A Commissioner for Oaths in and for the Province of Alberta

JAKUB MASLOWSKI
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Alberta
Division No. 02 - Calgary
Court No. 25-2731795
Estate No. 25-2731795

In the Matter of the Notice of Intention to make a proposal of:

International Fitness Holdings Inc.

Insolvent Person

KPMG INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

April 23, 2021

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: April 23, 2021, 17:30

E-File/Dépôt Electronique

Official Receiver

Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G4X3, (877)376-9902

Canada



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Alberta
Division No. 02 - Calgary
Court No. 25-2731797
Estate No. 25-2731797

In the Matter of the Notice of Intention to make a proposal of:

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Insolvent Person

KPMG INC.

Licensed Insolvency Trustee

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Date: April 23, 2021, 17:32

E-File/Dépôt Electronique

Official Receiver

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Canada



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District of Alberta
Division No. 02 - Calgary
Court No. 25-2731799
Estate No. 25-2731799

In the Matter of the Notice of Intention to make a proposal of:

World Health North LP

Insolvent Person

KPMG INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

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Date: April 23, 2021, 17:33

E-File/Dépôt Electronique

Official Receiver

Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G4X3, (877)376-9902

Canada

This is Exhibit "B" referred to in the Affidavit of Peter Melnychuk,
sworn before me in the City of Calgary,
in the Province of Alberta, on this 26th day of April, 2021



A Commissioner for Oaths in and for the Province of Alberta

JAKUB MASLOWSKI
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public

INTERIM FUNDING AGREEMENT

THIS AGREEMENT made as of the 31st day of January, 2019.

BETWEEN:

TRIWEST CAPITAL PARTNERS IV, L.P., by its
general partner, **TRIWEST CAPITAL PARTNERS
IV (2011) INC.**,

(hereinafter referred to as "**TW LP**")

- and -

TRIWEST CAPITAL PARTNERS IV (US), L.P., by
its general partner, **TRIWEST CAPITAL
PARTNERS IV (2011) INC.**,

(collectively hereinafter referred to with TW LP as
"**Triwest**")

- and -

CANADIAN IMPERIAL BANK OF COMMERCE,

(hereinafter referred to as "**CIBC**")

- and -

INTERNATIONAL FITNESS HOLDINGS INC,

(hereinafter referred to as the "**Borrower**")

WHEREAS CIBC and Triwest hereto have entered into a term sheet dated December 21, 2018 (the "**Term Sheet**"), a copy of which is attached as Schedule A hereto;

AND WHEREAS the parties hereto have been negotiating an amendment and restatement (the "**Restated Credit Agreement**") of the existing second amended and restated credit agreement dated as of April 30, 2018 (the "**Existing Credit Agreement**") among CIBC (as lender and agent) and the Borrower to give effect to the Term Sheet;

AND WHEREAS in recognition of the ongoing financial analysis and review of the Borrower, the parties continue to discuss the financial condition of the Borrower and the terms that shall be applicable to the ongoing Credit Facilities and which shall ultimately be reflected in the Restated Credit Agreement;

AND WHEREAS the parties hereto wish to allow for interim funding to the Borrower prior to the execution and delivery of a Restated Credit Agreement and related loan documentation;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT for good and valuable consideration, the parties hereto agree as follows:

1. Capitalized terms used but not defined herein (including the recitals) shall have the meanings ascribed to them in the Existing Credit Agreement.
2. Each of CIBC and Triwest shall advance \$750,000 to the Borrower (the "**Interim Advance**") on or prior to February 1, 2019 subject to the terms provided for herein. Triwest may advance its portion of the Interim Advance via its Affiliate, TriFit Holdings Limited Partnership ("**TriFit**").
3. The Interim Advance shall be deemed to be a Prime Rate Loan and shall bear interest and be payable as provided for in the Existing Credit Agreement; provided that the Interim Advance shall, until execution of the Restated Credit Agreement, be payable upon demand for payment by both CIBC and Triwest.
4. The Interim Advance shall be used by the Borrower to fund operating expenses.
5. Notwithstanding the provisions of the Term Sheet and the Existing Credit Agreement and that the portion of the Interim Advance by Triwest (of its Affiliate) is unsecured, all monies collected by CIBC upon the enforcement of CIBC's rights and remedies under the Security Documents and the Liens created by them including any sale or other disposition of any Collateral (in each case "**Proceeds**") shall be used to repay the Interim Advance and interest accrued thereon in priority to all other amounts owing pursuant to the Existing Credit Agreement. Any Proceeds used to repay the Interim Advance and interest accrued thereon shall be distributed to CIBC and Triwest (or its Affiliate) on a 50/50 basis. CIBC will be subrogated to the debt owed to Triwest (or its Affiliate) in connection with the Interim Advance on a dollar-for-dollar basis for any payments remitted to Triwest (or its Affiliate) on account of such debt that are derived from Proceeds.
6. No distributions shall be made by the Borrower other than as contemplated in the Term Sheet.
7. CIBC may advance its portion of the Interim Advance pursuant to the Capex Commitment although, for certainty, (x) interest applicable to such advance shall be as outlined in the Existing Credit Agreement and (y) the use of proceeds and terms of repayment to such advance shall be in accordance with the terms of this agreement.
8. The terms of the Restated Credit Agreement, upon execution and delivery, shall provide that the Interim Advance shall be deemed to be the initial funding by CIBC and Triwest (or its Affiliate) of the new facility as contemplated in the Term Sheet (as amended and which shall thereafter be fully reflected in the Restated Credit Agreement).
9. Neither Triwest nor TriFit shall be a Lender pursuant to the Existing Credit Agreement as a consequence of this agreement and the Interim Advance.

10. The Borrower agrees to the foregoing terms and shall cause each Loan Party to execute and deliver an acknowledgement and confirmation with respect to its guarantee and security previously delivered to the Administrative Agent.

11. This agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same agreement. This agreement may be executed by pdf transmission.

12. This agreement shall be governed by the laws of the Province of Alberta and federal laws of Canada applicable therein.

[signature pages follow]

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first written above.

TRIWEST CAPITAL PARTNERS IV,
L.P., by its general partner, TRIWEST
CAPITAL PARTNERS IV (2011) INC.

by 
Name:
Title:

TRIWEST CAPITAL PARTNERS IV
(US), L.P., by its general partner,
TRIWEST CAPITAL PARTNERS IV
(2011) INC.

by 
Name:
Title:

INTERNATIONAL FITNESS HOLDINGS
INC.

by 
Name: Ryan Giles
Title: Secretary

Name:
Title:

CANADIAN IMPERIAL BANK OF
COMMERCE

by _____
Name:
Title:

Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first written above.

**TRIWEST CAPITAL PARTNERS IV,
L.P., by its general partner, TRIWEST
CAPITAL PARTNERS IV (2011) INC.**

by _____
Name:
Title:

**TRIWEST CAPITAL PARTNERS IV
(US), L.P., by its general partner,
TRIWEST CAPITAL PARTNERS IV
(2011) INC.**

by _____
Name:
Title:

**INTERNATIONAL FITNESS HOLDINGS
INC.**

by _____
Name:
Title:

**CANADIAN IMPERIAL BANK OF
COMMERCE**

by  _____
Name: **SUPRIYA SARIN**
Title: **Senior Director**

Name:
Title:

Name:
Title:

SCHEDULE A
TERM SHEET

See attached.

TERM SHEET
INTERNATIONAL FITNESS HOLDINGS INC.
TRIWEST/CIBC
December 21, 2018

Borrower: International Fitness Holdings Inc.

Administrative Agent: Canadian Imperial Bank of Commerce (the "Agent")

New Facility: To be committed on Closing Date:
Triwest: \$10,000,000
CIBC: \$10,000,000

Facility commitment can increase to up to aggregate \$23,000,000 (inclusive in the case of Triwest of their existing \$500,000 Triwest guarantee) on agreement between CIBC and Triwest.

If on review of the budget and business plan by CIBC and its advisors, it is determined that the funding needs of the Borrower are more than \$23,000,000, both CIBC and Triwest will consider and agree on a reduction in cash pay interest so that their combined commitment under the New Facility does not increase beyond \$23,000,000.

Maturity: December 31, 2021 (Note: existing credit facilities to be extended to December 31, 2021).

Purpose: Funds to be used for capital expenditures and to fund operating expenses.

Closing Date: January 15, 2019

Interest Rate for New Facility: Cash pay (payable monthly in arrears) – Prime + 2% per annum
PIK – 10% per annum

Standby fee: 1.10%.

Amortization: Nil – payable on maturity.

<i>Advances:</i>	Each advance under the New Facility to be in minimum amounts of \$2,000,000. Advances to be made in accordance with the schedule to be prepared by the Borrower consistent with its budget and business plan, and approved by CIBC and its advisors (an " Approved Advance "). Each Advance to be funded by each of CIBC and Triwest/co-investor based on their pro rata share of the New Facility.
<i>Priority:</i>	Secured by existing security – waterfall to provide that the New Facility is to be paid in priority to existing credit facilities pursuant to the Restated Credit Agreement.
<i>Subsequent Commitment/Advances by CIBC:</i>	Triwest/co-investor commitment will have first priority in the waterfall for commitment under the New Facility. The CIBC New Facility commitment will have priority in the waterfall subsequent to the Triwest/co-investor New Facility commitment.
<i>Conditions to Funding of New Facility:</i>	Conditions as set forth in Sections 5.01 and 5.01(A) of the Restated Credit Agreement, compliance with minimum EBITDA financial covenant and each Advance to be an Approved Advance.
<i>Existing CIBC Debt:</i>	Interest and fees to continue as provided for in Restated Credit Agreement. No further advances pursuant to Capex Facility subsequent to December 31, 2018.
<i>Reporting:</i>	As set forth in the Restated Credit Agreement plus such additional reporting and business plan / projections as may be required by the Agent.
<i>Distributions:</i>	No distributions. Only cash payments on funded debt outside of Existing Credit Agreement, New Facility and capital leases/PMSI's permitted.
<i>Restated Credit Agreement:</i>	Means the second amended and restated credit agreement dated as of April 30, 2018 among the Borrower, the Agent and CIBC as lender (the " Restated Credit Agreement ").
<i>Voting:</i>	Triwest and co-investors to have no voting rights pursuant to the Existing Credit Agreement and loan documents provided that amendments to waterfall shall require approval of all Lenders. Triwest and co-investors to acknowledge no right to have cause of action against CIBC in connection with Credit Facilities and loan documents.
<i>Assignments:</i>	Triwest and co-investors not to assign commitments or debt under New Facility without written consent of CIBC.
<i>Board Observer:</i>	CIBC shall be entitled to have an observer on the board of the Borrower.

- Minimum EBITDA Covenant:* To be revised based on financial model.
- Minimum Liquidity:* The Borrower shall maintain minimum liquidity (availability pursuant to the revolving facility and cash on hand) of no less than \$2,000,000.
- Warrant:* CIBC to receive warrant (for nominal strike price) for 20% of the equity of the Borrower (on a fully diluted basis).
- Deeply Subordinated Debt* The deeply subordinated debt of the Borrower owing to Triwest shall be amended such that interest shall stop accruing and all existing accrued interest shall be forgiven.

[signature page follows]

**TRIWEST CAPITAL PARTNERS IV,
L.P., by its general partner, TRIWEST
CAPITAL PARTNERS IV (2011) INC.**

by 
Name: Jeff Belford
Title: Director

Name:
Title:

**TRIWEST CAPITAL PARTNERS IV
(US), L.P., by its general partner,
TRIWEST CAPITAL PARTNERS IV
(2011) INC.**

by 
Name: Jeff Belford
Title: Director

Name:
Title:

**CANADIAN IMPERIAL BANK OF
COMMERCE**

by _____
Name:
Title:

Name:
Title:

TRIWEST CAPITAL PARTNERS IV,
L.P., by its general partner, TRIWEST
CAPITAL PARTNERS IV (2011) INC.

by _____
Name:
Title:

Name:
Title:

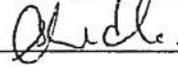
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(US), L.P., by its general partner,
TRIWEST CAPITAL PARTNERS IV
(2011) INC.

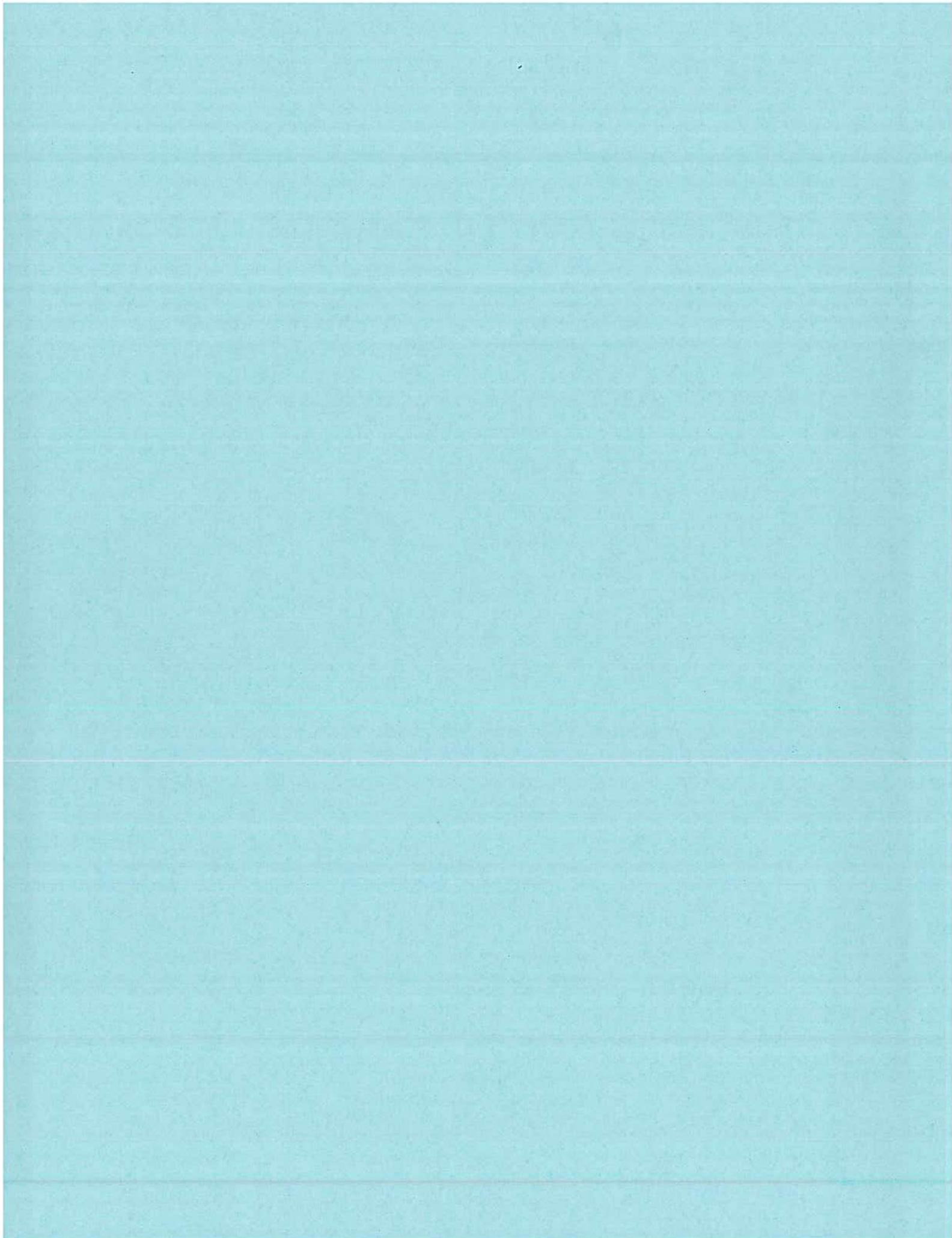
by _____
Name:
Title:

Name:
Title:

CANADIAN IMPERIAL BANK OF
COMMERCE

by 
Name: **MARK CONZELMAN**
Title: **SENIOR VICE-PRESIDENT**


Name:
Title: **SUPRIYA SARIN**
Senior Director



THIRD AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

February 27, 2019

among

**INTERNATIONAL FITNESS HOLDINGS INC.,
as Borrower**

and

**CANADIAN IMPERIAL BANK OF COMMERCE,
as Fronting Agent and Administrative Agent**

and

THE LENDERS PARTY HERETO

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- Schedule 5.50(d) – Budget
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EXHIBITS:

- Exhibit A – Form of Assignment and Acceptance
- Exhibit B – Form of Notice of Borrowing
- Exhibit C – Form of Notice of Conversion or Continuation
- Exhibit D – Form of Compliance Certificate

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDED AND RESTATED CREDIT AGREEMENT, dated as of February 27, 2019 is by and among INTERNATIONAL FITNESS HOLDINGS INC., a corporation amalgamated under the laws of Alberta (together with its permitted successors and assigns, the "Borrower"), the Lenders from time to time party hereto, and CANADIAN IMPERIAL BANK OF COMMERCE, as Fronting Agent and Administrative Agent.

WITNESSETH:

WHEREAS, the parties hereto (in the case of the Borrower, its predecessor IFH Acquisition Corp.) are party to a credit agreement dated as of August 1, 2014 (as amended to the date hereof, the "Original Credit Agreement");

AND WHEREAS, the parties hereto amended and restated the Original Credit Agreement on July 19, 2016 pursuant to an amended and restated credit agreement (as amended to the date hereof, the "Restated Credit Agreement");

AND WHEREAS, the parties hereto amended and restated the Restated Credit Agreement on April 30, 2018 pursuant to a second amended and restated credit agreement (as amended to the date hereof, the "Second Restated Credit Agreement");

AND WHEREAS, the parties hereto wish to amend and restate the Second Restated Credit Agreement;

NOW, THEREFORE, for and in consideration of the above promises and the mutual covenants and agreements contained herein, Borrower, the other Loan Parties, the Lenders, the Fronting Agent, and the Administrative Agent hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Defined Terms. As used in this Credit Agreement (including the Schedules hereto), the following terms shall have the meanings specified below:

"883 Vendor" means 883384 Alberta Ltd.

"883 Vendor Subordinated Debt" means the debt in the principal amount, as at the Fifth Closing Date, of \$339,166.67 owed to the 883 Vendor by the Borrower which debt shall otherwise have the characteristics of Deeply Subordinated Debt and in which no cash payments of any nature or kind may be made.

"883 Vendor Subordination Agreement" means the subordination and postponement agreement, in form and substance acceptable to the Administrative Agent among the Borrower, the Administrative Agent and the 883 Vendor in connection with the 883 Vendor Subordinated Debt.

"2018 Capital Contribution" means the advance on the Fourth Closing Date by the Sponsor to Holdco of no less than \$2,800,000 of Deeply Subordinated Debt which funds shall be used by Holdco to acquire Class A operating units in the

capital of World Health North LP and World Health North LP shall use the funds for Capital Expenditures and working capital.

"2019 Borrowing" shall mean a Borrowing comprised of 2019 Loans.

"2019 Commitment" shall mean, with respect to each 2019 Lender, the commitment of such Lender or any assignee thereof to make 2019 Loans as set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender assumed its 2019 Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.08, Section 2.09, or Section 11.04, or (b) increased from time to time pursuant to Section 2.01(b) or assignments by or to such Lender pursuant to Section 2.09, or Section 11.04.

"2019 Lenders" shall mean the Lenders having 2019 Commitments or holding 2019 Loans.

"2019 Loans" shall mean the non-revolving loans made by the 2019 Lenders to the Borrower pursuant to Section 2.01(d).

"Acceptance Fee" shall mean a fee payable in Dollars by Borrower to the Administrative Agent for the account of a Lender with respect to the acceptance of a B/A or the making of a B/A Equivalent Loan on the date of such acceptance, calculated on the face amount of the B/A or the B/A Equivalent Loan at the rate per annum applicable on such date to B/As in the definition of the term "Applicable Rate" set forth herein on the basis of the number of days in the applicable Contract Period (including the date of acceptance and excluding the date of maturity) and a year of 365 or 366 days, as applicable (it being agreed that the rate per annum applicable to the B/A Equivalent Loan is equivalent to the rate per annum otherwise applicable to the Bankers' Acceptance which has been replaced by the making of such B/A Equivalent Loan pursuant to Section 2.22(h).

"Account" shall have the meaning given such term in the PPSA.

"Additional Compensation" is defined in Section 2.15(c).

"Administrative Agent" shall mean CIBC, in its capacity as administrative agent for the Lenders and the Fronting Agent.

"Administrative Questionnaire" shall mean an Administrative Questionnaire in the form supplied from time to time by the Administrative Agent.

"Affiliate" shall mean, when used with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For purposes of this definition, no Lender or any Affiliate of a Lender shall be deemed to be an Affiliate of a Loan Party solely by reason of its security interest in or ownership of or right to vote any Indebtedness or equity securities of such Loan Party.

"Amalco" means International Fitness Holdings Inc., an Alberta corporation, being the entity continuing from the Amalgamation and includes its successors.

"Amalgamation" means the amalgamation of IFH Acquisition Corp., IFHI, WHI and Spa Lady Inc.

"Applicable Percentage" of any Revolving Lender shall mean the percentage of the aggregate Revolving Commitments represented by such Lender's Revolving Commitment. If the Revolving Commitments shall have terminated or expired, the Applicable Percentage shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments.

"Applicable Rate" shall mean, for any day, with respect to any Term Loan, Revolving Loan, LC Participation Fee or Commitment Fee, as the case may be, (i) in the case of the Prime Rate, 4.25%, (ii) in the case of B/As and LC Participation Fee, 5.50%, or (iii) in the case of the Commitment Fee, 1.10%.

"Approved Fund" shall mean any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) any Lender, (b) an Affiliate of any Lender or (c) an entity or an Affiliate of an entity that administers or manages any Lender.

"Asset Sale" shall mean the sale, transfer or other disposition (including any casualty or condemnation) by a Loan Party to any Person other than a Loan Party of (a) any capital stock in any Person (other than its own capital stock) or (b) any other asset or right of such Loan Party.

"Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender and an assignee (with the consent of any Person whose consent is required by Section 11.04(b)), in the form of Exhibit A or such other form as shall be approved by the Administrative Agent.

"Availability Period" shall mean the period commencing on the Closing Date and ending on the Maturity Date.

"B/A Equivalent Loan" is defined in Section 2.22(h).

"B/A Loan" shall mean a Borrowing comprised of one or more Bankers' Acceptances or, as applicable, B/A Equivalent Loans. For greater certainty, all provisions of this Credit Agreement which are applicable to Bankers' Acceptances are also applicable, mutatis mutandis, to B/A Equivalent Loans.

"Bankers' Acceptance" and "B/A" shall mean a non-interest bearing instrument denominated in Dollars, drawn by Borrower and accepted by a Lender in accordance with this Credit Agreement, and shall include a depository note within the meaning of the *Depository Bills and Notes Act* (Canada) and a bill of exchange within the meaning of the *Bills of Exchange Act* (Canada).

"Beneficiaries" shall mean (a) the Lenders, the Fronting Agent and the Administrative Agent, (b) the Swap Lenders, (c) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (d) the successors and assigns of each of the foregoing.

"Borrower" means International Fitness Holdings Inc., an Alberta corporation.

"Borrower Pledge Agreement" shall mean the pledge agreement in form and substance acceptable to the Administrative Agent, by Borrower in favour of the Administrative Agent, for the benefit of the Beneficiaries, in respect of all shares of capital stock and other Equity Interests of each Subsidiary from time to time held by, or issued or transferred to, Borrower.

"Borrower Security Agreement" shall mean the general security agreement, dated as of the Closing Date, by and between Borrower and the Administrative Agent, for the benefit of the Beneficiaries.

"Borrowing" shall mean a group of Loans of the same Class and Type, and denominated in the same currency, made, converted or continued by the Lenders on a single date and as to which (in the case of a B/A Loan) a single Contract Period is in effect.

"Business" means the business of the Target, being the operation and development of member gyms operating under the names "Spa Lady" or "World Health".

"Business Day" shall mean any day (other than a Saturday, Sunday or legal holiday in the Province of Ontario or Alberta) on which banks are open for business in Toronto, Ontario and Calgary, Alberta; provided that when used in connection with a Letter of Credit, the term "Business Day" shall also exclude any day on which banks are not open for business in the jurisdiction in which the lending office of CIBC is located.

"Business Unit" shall mean the assets constituting the business, or a division or operating unit thereof, of any Person.

"Canadian Benefit Plans" shall mean all employee benefit plans of any nature or kind whatsoever (other than the Canadian Pension Plans) that are maintained or contributed to by a Loan Party.

"Canadian Pension Plans" shall mean each plan that is considered to be a pension plan for the purposes of the ITA or any applicable pension benefits standards statute or regulation in Canada and that is established, maintained or contributed to by a Loan Party for its current or former employees.

"Capex Borrowing" shall mean a Borrowing comprised of Capex Loans.

"Capex Commitment" shall mean, with respect to each Capex Lender, the commitment of such Lender or any assignee thereof to make Capex Loans as set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender assumed its Capex Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.08, Section 2.09, or Section 11.04, or (b) increased from time to time pursuant to Section 2.01(e) or assignments by or to such Lender pursuant to Section 2.09, or Section 11.04.

"Capex Lenders" shall mean the Lenders having Capex Commitments or holding Capex Loans.

"Capex Loans" shall mean the revolving loans made by the Capex Lenders to the Borrower pursuant to Section 2.01(d).

"Capital Contribution" means the contribution to the Borrower by Trifit Holdings Limited Partnership, the 883 Vendor and the RAL Vendor on June 30, 2016 of Deeply Subordinated Debt in a minimum principal amount of \$5,000,000.

"Capital Expenditures" shall mean, for any period, all amounts that would be included as additions to property, plant and equipment and other capital expenditures on a consolidated statement of cash flows for the Obligors during such period in accordance with GAAP (excluding capitalized interest but including the amount of assets leased under any Capital Lease); provided that Capital Expenditures shall not include the capitalized portion of any Permitted Acquisitions.

"Capital Lease" is defined in the definition of the term "Capital Lease Obligations".

"Capital Lease Obligations" of any Person shall mean the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof (each, a "Capital Lease"), which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP. For the purposes of this Credit Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time, determined in accordance with GAAP.

"Cash Collateral" is defined in Section 2.13(a)(ii).

"Cash Proceeds" shall mean, with respect to any Asset Sale, cash, cash equivalents or marketable securities received from such Asset Sale (including any insurance or condemnation proceeds), it being understood and agreed that such proceeds shall constitute Cash Proceeds only when they are received even though such proceeds may be a deferred payment pursuant to a note receivable or otherwise.

"CDOR Rate" shall mean, for any day, the annual rate of interest that is the rate based on an average rate applicable to Dollar bankers' acceptances for a term equal to the term of the relevant Contract Period (or for a term of one month for purposes of determining the Prime Rate) appearing on the Reuters Screen CDOR Page at approximately 10:00 a.m., Standard Time, on such day, or if such day is not a Business Day, on the immediately preceding Business Day, provided that if such rate does not appear on the Reuters Screen CDOR Page on such day as contemplated, then the CIBC CDOR Rate on such day shall be the Administrative Agent's B/A bid rate.

"Change of Control" shall mean any transaction or event (including, without limitation, an issuance, sale or exchange of Equity Interests, a merger or

consolidation, or a dissolution or liquidation) occurring on or after the date hereof (whether or not approved by the board of directors of Borrower) as a direct or indirect result of which: (a) the Sponsor collectively fails to beneficially own, directly or indirectly, a majority of the economic and voting interests of all Equity Interests then outstanding of Holdco; (b) Holdco fails to beneficially and directly own Equity Interests of Borrower representing 100% of the voting interests of all Equity Interests then outstanding of Borrower or Holdco ceases to have control of the board of directors of Borrower; or (c) Holdco or Borrower fails to beneficially own, directly or indirectly, 100% of the economic and voting interests of all Equity Interests then outstanding of their respective Subsidiaries.

"Change of Law" is defined in Section 2.15(a).

"Charges" is defined in Section 11.11.

"CIBC" shall mean Canadian Imperial Bank of Commerce and its assigns.

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Term Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment or Term Commitment.

"Closing Date" shall mean August 1, 2014.

"Collateral" shall mean, with respect to any Loan Party, all of the "Collateral" as defined in any Security Document in respect of which a security interest or other Lien is granted by it to the Administrative Agent, for the benefit of the Beneficiaries.

"Collateral Investments" is defined in Section 2.13(a)(ii).

"Commitment" shall mean, with respect to each Lender, such Lender's Revolving Commitment (which includes without duplication the Swingline Commitment and the Letter of Credit Commitment), Capex Commitment, Subordinate Commitment, Term Commitment or 2019 Commitment, as applicable.

"Commitment Fees" is defined in Section 2.06(a).

"Compliance Certificate" is defined in Section 6.06(f).

"Contingent Obligation" means, as to any Person, any obligation, whether secured or unsecured, of such Person guaranteeing or indemnifying, or in effect guaranteeing or indemnifying, any indebtedness, leases, dividends, letters of credit or other monetary obligations (the "primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person as an account party in respect of a letter of credit or letter of guarantee issued to assure payment by the primary obligor of any such primary obligation and any obligations of such Person, whether or not contingent, (a) to purchase any such primary obligation or any Collateral constituting direct or indirect security therefor, (b) to advance or supply funds for the purchase or payment of any such primary obligation or to maintain working

capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase Collateral, securities or services primarily for the purpose of assuring the obligee under any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (d) otherwise to assure or hold harmless the obligee under such primary obligation against loss in respect of such primary obligation; provided, however, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business.

"Contract Period" shall mean the term of a B/A Loan selected by Borrower in accordance with Section 2.22, commencing on the date of such B/A Loan and expiring on a Business Day which shall be either one, two, three or six months thereafter (in each case, subject to availability as determined by the Administrative Agent, acting reasonably), provided that (a) subject to clause (b) below, each such period shall be subject to such extensions or reductions as may be determined by the Administrative Agent to ensure that each Contract Period shall expire on a Business Day, and (b) no Contract Period shall extend beyond the Maturity Date.

"Control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or other Equity Interests, by contract or otherwise. "Controlling" and "Controlled" shall have meanings correlative thereto.

"Credit Agreement" shall mean this third amended and restated credit agreement.

"Credit Event" is defined in Article V.

"Credit Facility" shall mean a Class of Commitments and all extensions of credit thereunder. For purposes of this Credit Agreement, each of the following comprises a separate Credit Facility: (a) the Term Commitment, (b) the Revolving Commitment (which includes without duplication the Swingline Commitment and the Letter of Credit Commitment), (c) the Subordinate Commitment, (d) the Capex Commitment and (e) 2019 Commitment.

"Deeply Subordinated Debt" means Indebtedness of Borrower or Holdco which is borrowed on terms and conditions, and pursuant to documentation, acceptable to the Administrative Agent, including without limitation the following terms: (a) such Indebtedness shall be unsecured; (b) such Indebtedness shall have a maturity date of no earlier than 6 months subsequent to the Maturity Date; (c) no interest shall accrue in respect of such Indebtedness; (d) the principal amount of such Indebtedness shall be postponed to the repayment in full of the Obligations; (e) other than the covenant to pay principal and interest when such Indebtedness matures in accordance with clause (b) above, none of the Loan Parties shall make any covenants in favour of the lender in respect of such Indebtedness; (f) such Indebtedness shall not be assignable by the holders thereof to third parties; (g) the holders of such Indebtedness shall have no right to accelerate, make demand or take enforcement actions until the earlier of: (i) the Lenders taking enforcement action with respect to the Obligations and (ii) the time at

which the Obligations have been paid in full and this Credit Agreement has been terminated; (h) such Indebtedness shall not cross-default to any other Indebtedness of the Loan Parties; and (i) such Indebtedness shall be subject to a subordination and postponement agreement satisfactory to the Administrative Agent.

"Default" shall mean any event or condition that upon giving of notice, lapse of time or both would constitute an Event of Default.

"Default Rate" is defined in Section 2.08.

"Deficit Lender" is defined in Section 8.02(b).

"Deposit Account" shall mean, with respect to any Person, any demand, time, savings, passbook or similar account of such Person maintained with a bank, savings and loan association, credit union or similar organization, whether now owned or existing or hereafter acquired or arising.

"Designated Financial Covenants" is defined in Section 8.03.

"Designated New Fitness Club" means (i) the World Health club located at Calgary Place, (ii) the Spa Lady club located at Whitemud, or (iii) the proposed Spa Lady club at Beacon Heights. "Designated New Fitness Clubs" refers to any or all of the foregoing clubs.

"Discount Proceeds" shall mean, for any B/A (or, as applicable, any B/A Equivalent Loan), an amount (rounded to the nearest whole cent, and with one-half of one cent being rounded upwards) calculated on the applicable date of the Borrowing of which such B/A (or B/A Equivalent Loan) is a part or any rollover date for such Borrowing by multiplying:

- (a) the face amount of the B/A (or, as applicable, the B/A Equivalent Loan);
by
- (b) the quotient of one divided by the sum of one plus the product of:
 - (i) the Discount Rate (expressed as a decimal) applicable to such B/A (or, as applicable, such B/A Equivalent Loan), and
 - (ii) a fraction, the numerator of which is the Contract Period of the B/A (or, as applicable, such B/A Equivalent Loan) and the denominator of which is 365 days or 366 days, as applicable,

with such quotient being rounded up or down to the fifth decimal place, and any multiple of .000005 being rounded up.

"Discount Rate" shall mean:

- (a) with respect to any Lender that is a Schedule I Bank, as applicable to a B/A being purchased by such Lender on any day, the CDOR Rate on such day; and

- (b) with respect to any Lender that is not a Schedule I Bank, as applicable to a B/A being purchased or B/A Equivalent Loan being made or deemed to be purchased by such Lender on any day, the CDOR Rate on such day plus 10 basis points (0.10%).

"Dollars" and "\$" shall mean lawful currency of Canada.

"Earn Out Obligations" means and includes any earn out obligations, performance payments or similar obligations of any Obligor to any one or more sellers of the applicable assets or Equity Interests arising out of or in connection with an acquisition.

"EBITDA" shall mean for any relevant period, the sum, without duplication, of the amounts for such period of Net Income plus, in each case to the extent deducted in determining such Net Income, (a) all federal, provincial, state, local and foreign taxes, (b) Interest Expense, (c) depreciation and amortization expense, (d) non-cash amortization of deferred financing fees, (e) any other non-cash charges (including, without limitation, the Management Fee accrual), and (f) an adjustment for deferred rent (adjustment of deferred rent amortization to reflect true cash impact).

"Edmonton Transaction" means the sale prior to the Closing Date by Club Fit Inc. and the WHI of their Edmonton assets to World Health Edmonton Inc.

"Environmental Laws" shall mean all current and future federal, state, provincial, local and foreign laws, rules or regulations, codes, ordinances, orders, decrees, judgments or injunctions issued, promulgated, approved or entered thereunder or other requirements of Governmental Authorities or the common law, relating to health, safety, or pollution or protection of the environment, including laws relating to emissions, discharges, releases or threatened releases of, or exposure to, pollutants, contaminants, chemicals or industrial, toxic or hazardous substances, or wastes into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances, or wastes, or underground storage tanks and emissions or releases therefrom.

"Equipment" shall mean all of the equipment of the Loan Parties, from time to time used in the conduct of the business of the Loan Parties.

"Equity Interests" shall mean, with respect to any Person, any and all shares, interests, participations or other equivalents, including membership interests (however designated, whether voting or nonvoting), of capital of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such partnership, whether outstanding on the Closing Date or thereafter.

"Event of Default" is defined in Article VIII.

"Excess Cash Flow" shall mean, for the relevant period, EBITDA during such period, minus the sum, without duplication, of:

- (a) cash Taxes and Tax Distributions paid during such period;
- (b) cash Interest Expenses paid during such period;
- (c) scheduled repayments of Term Loans made in accordance with Section 2.11;
- (d) scheduled repayments of Capital Leases made by the Obligors on a consolidated basis during such period; and
- (e) Unfinanced Capital Expenditures (excluding Capital Expenditures made through a Sale Proceeds Reinvestment) made during such period;

plus, without duplication, interest income received by the Obligors on a consolidated basis during such period.

"Existing Debt" means indebtedness outstanding on the Closing Date owing by the Borrower to CIBC.

"Fee Letter" shall mean the fee letter in respect of the Credit Facilities, dated on or about the Second Closing Date between Borrower and CIBC, in its capacity as the Administrative Agent.

"Fifth Closing Date" shall mean February 27, 2019.

"Financial Officer" of any Person shall mean the chief financial officer, principal accounting officer, treasurer, controller or assistant treasurer of such Person.

"Fiscal Quarter" shall mean, with respect to any Loan Party, a three month period ending on the last day of March, June, September and December of each Fiscal Year of such Loan Party.

"Fiscal Year" shall mean the Fiscal Year of the Loan Parties beginning in each case on January 1 and ending on December 31 of the following calendar year.

"Fixed Rate" means 16% per annum.

"Fourth Closing Date" shall mean April 30, 2018.

"Fronting Agent" shall mean CIBC.

"GAAP" shall mean, applied on a consistent basis, (a) generally accepted accounting principles in Canada which are in effect from time to time, as published in the Handbook of the Chartered Professional Accountants Canada, or if such accounting principles are replaced, (b) any replacement or successor accounting standards in effect from time to time, including without limitation the International Financial Reporting Standards issued by the International Accounting Standards Board.

"Governmental Authority" shall mean any federal, state, provincial, regional, local or foreign court or governmental agency, authority, instrumentality or regulatory body.

"Guarantee" of or by any Person shall mean any obligation, contingent or otherwise (whether or not denominated as a guarantee), of such Person guaranteeing any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness, (b) to purchase property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment of such Indebtedness or (c) to maintain working capital, equity capital or other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness; provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee at any time shall be deemed to be an amount equal to the lesser at such time of (x) the stated or determinable amount of the primary obligation in respect of which such Guarantee is made or (y) the maximum amount for which such Person may be liable pursuant to the terms of the instrument embodying such Guarantee (or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof).

"Guarantee Agreement" shall mean a guarantee in form and substance acceptable to the Administrative Agent granted by a Guarantor in favour of the Administrative Agent, for the benefit of the Beneficiaries and "Guarantee Agreements" means all such guarantees.

"Guarantor Security Agreements" shall mean the security agreements in form and substance acceptable to the Administrative Agent, granted by each Guarantor, in favour of the Administrative Agent, for the benefit of the Beneficiaries.

"Guarantors" shall mean Holdco, Holdco GP and each Subsidiary of Holdco other than the Borrower and Spa Lady (West) Inc.

"Hazardous Substance" means any substance which is regulated under Environmental Laws, including any hazardous product, contaminant, toxic substance, deleterious substance, waste, dangerous goods or reportable substance.

"Hedge Arrangements" means for any period for any Loan Party any arrangement or transaction between such Loan Party and any other person that is an interest rate swap transaction, basis swap, forward interest rate transaction, commodity swap, interest rate option, forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency interest rate swap transaction, currency option or any similar transaction (including any option with respect to any of such transactions or arrangements) designed to protect or mitigate against risks in interest, currency exchange or commodity price fluctuations.

"Holdco" shall mean Fitness West Holdings Limited Partnership, a limited partnership organized under the laws of Alberta.

"Holdco GP" means Fitness West Holdings G.P. Ltd.

"Holdco Pledge Agreement" shall mean the pledge agreement in form and substance acceptable to the Administrative Agent, granted by Holdco in favour of the Administrative Agent, for the benefit of the Beneficiaries, in respect of all Equity Interests that it owns from time to time.

"IFHI" means International Fitness Holdings Inc. (as that corporation existed immediately prior to the Amalgamation).

"Indebtedness" of any Person shall mean all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, including without limitation and without duplication (a) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (b) all obligations of such Person under conditional sale or other title retention agreements relating to assets purchased by such Person, (c) all obligations of such Person issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable arising in the ordinary course of business) and all Earn Out Obligations, (d) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed by such Person (and in the event such Person has not assumed or otherwise become liable for payment of such obligation, the amount of Indebtedness under this clause (d) shall be the lesser of the amount of such obligation and the fair market value of such property), (e) all Guarantees by such Person, (f) all Capital Lease Obligations of such Person, (g) all obligations, contingent or otherwise, of such Person as an account party to reimburse any bank or any other Person in respect of amounts drawn under letters of credit and letters of guaranty, (h) Contingent Obligations, and (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances. The Indebtedness of any Person shall include the Indebtedness of any partnership in which such Person is a general partner, except to the extent such Indebtedness is expressly non-recourse to such Person.

"Indemnitee" is defined in Section 11.05(b).

"Information" is defined in Section 11.16.

"Insolvency Law" shall mean, to the extent applicable, (a) the *Bankruptcy and Insolvency Act* (Canada), (b) the *Companies' Creditors Arrangement Act* (Canada), and (c) any similar federal, provincial, state, local or foreign bankruptcy or insolvency law, in each case as now constituted or hereafter amended or enacted.

"Intercorporate Indebtedness" means Indebtedness among or between the Loan Parties or any of them.

"Interest Expense" shall mean, for any period, the interest expense of the Obligors for such period determined on a consolidated basis in accordance with GAAP.

"Investment" shall mean, as applied to any Person (the "investor"), any direct or indirect purchase or other acquisition by the investor of, or a beneficial interest in, stock or other securities of, or all or substantially all of the assets of a Business Unit of, any other Person, including any exchange of equity securities for Indebtedness, or any direct or indirect loan, advance or capital contribution by the investor to any other Person, Guarantee or assumption of Indebtedness, or purchase or other acquisition of any other debt or equity participation or interest in, another Person by the investor, including any partnership or joint venture interest in such other Person, including all Indebtedness and accounts receivable owing to the investor from such other Person that did not arise from sales or services rendered to such other Person in the ordinary course of the investor's business. Except for any Investment described in the immediately succeeding sentence, the amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment minus any amounts (a) realized upon the disposition of assets comprising an Investment (including the value of any liabilities assumed by any Person other than a Loan Party in connection with such disposition), (b) constituting repayments of Investments that are loans or advances or (c) constituting cash returns of principal or capital thereon (including any dividend, redemption or repurchase of equity that is accounted for, in accordance with GAAP, as a return of principal or capital). For purposes of this Credit Agreement, the redemption, purchase or other acquisition for value by a Loan Party of any shares of its capital stock from a Person other than another Loan Party shall be deemed to be an "Investment" by such Loan Party in its shares of capital stock.

"ITA" shall mean the *Income Tax Act* (Canada), as amended, and any successor thereto, and any regulations promulgated thereunder.

"Judgment Currency" is defined in Section 11.18(a).

"Judgment Currency Conversion Date" is defined in Section 11.18(a).

"Landlord Agreements" shall mean the landlord consent and waiver by each landlord of a leased location in form and substance satisfactory to the Administrative Agent.

"LC Disbursement" shall mean any payment or disbursement made by the Fronting Agent under or pursuant to a Letter of Credit.

"LC Exposure" shall mean, at any time of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit and (b) the aggregate amount of all LC Disbursements in respect of Letters of Credit that have not been reimbursed by Borrower or another Loan Party at such time.

"Leasehold Mortgages" shall mean the registered or unregistered mortgages, debentures or assignments (as applicable), in form and substance satisfactory to the Administrative Agent, of the leases in respect of the lands and premises leased by the Target and thereafter the Borrower or its Affiliates in Alberta, granted by the lessee thereof in favour of the Administrative Agent, for the benefit of the Beneficiaries.

"Lenders" shall mean the Persons listed on Schedule 2.01 (and their respective successors, which shall include any entity resulting from a merger or consolidation), and any other Person that shall have become a party hereto pursuant to an Assignment and Acceptance, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Acceptance. For greater certainty, the term "Lenders" shall include the Swingline Lender.

"Lenders' Counsel" shall mean Davies Ward Phillips & Vineberg LLP or such other counsel as the Lenders may from time to time retain.

"Letter of Credit Commitment" shall mean the commitment of the Fronting Agent to make Letters of Credit available under the Revolving Commitment in an aggregate outstanding amount not to exceed \$500,000; provided that such commitment is a sub-limit of the Revolving Commitment, and is not in addition thereto.

"Letter of Credit Request" shall mean a properly completed notice in a form acceptable to the Fronting Agent.

"Letters of Credit" shall mean the letters of credit issued for the account of Borrower by the Fronting Agent pursuant to the terms and conditions of Article III.

"Lien" shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, assignment for security, hypothecation, encumbrance, charge or security interest in or on such asset, and (b) the interest of a vendor or a lessor under any conditional sale agreement, Capital Lease or title retention agreement relating to such asset.

"Liquidity" means the aggregate of (x) unencumbered (other than in favour of the Administrative Agent) cash on hand, and (y) availability pursuant to the 2019 Commitment.

"Loan Documents" shall mean this Credit Agreement, the Letters of Credit, the Security Documents, Service Agreements, Hedge Arrangements, the Guarantee Agreements, the Fee Letter, the Vendor Subordination Agreements, the Sponsor Subordination Agreement and all agreements, instruments and documents which create or perfect any of the Liens securing the Obligations or create any obligation between any Loan Party and the Administrative Agent or any Lender, a Compliance Certificate, and all agreements, instruments and documents that are agreed to by Borrower and the Administrative Agent to constitute a "Loan Document" hereunder heretofore, now or hereafter executed by or on behalf of any Loan Party and delivered to or for the benefit of the Administrative Agent or any Lender in connection with this Credit Agreement, and all renewals,

replacements, consolidations, substitutions and extensions of any of the foregoing.

"Loan Party" shall mean each of Borrower and the Guarantors, and each other Subsidiary or Affiliate of a Loan Party executing a Loan Document from time to time; and "Loan Parties" shall mean all such Persons together.

"Loans" shall mean the Revolving Loans, the Term Loans, the Capex Loans, Subordinate Loans and the 2019 Loans.

"Management Fees" shall mean the quarterly management fees and reimbursement expenses payable by the Borrower to the Sponsor in an amount not exceeding \$150,000 in any Fiscal Quarter of the Borrower. For certainty, effective December 31, 2018, Management Fees shall not be paid but shall continue to accrue.

"Master Plan" means the detailed plan (e.g. gantt charts, etc.) prepared by the Borrower for the implementation of each of the major operational initiatives that the Borrower's turnaround plan, as outlined in the financial projections for the period Jan 1, 2019 to Dec 31, 2022 and the bank update presentation dated November 2018, contemplates including timelines, budgets for equipment and renovations, any conditions to be fulfilled prior to funds being spent, landlord consents being sought and consultant involvement and their cost. For clarity, the major operational initiatives include club openings/conversion/closings, premises lease renewals/re negotiations on lease rates and tenant improvement allowances, club renovations and equipment upgrades, IT hardware and software upgrades, mobile app launch, online presence launch, new branding, development of advertising and promotional materials for new branding, relaunch of FreshFit, head office staff reductions, and membership fee increases.

"Material Adverse Effect" shall mean any act, omission, event or undertaking which would, singly or in the aggregate, have a materially adverse effect upon (a) the business, assets, properties, liabilities (contingent or otherwise), condition (financial or otherwise) or operations of the Loan Parties taken as a whole, (b) the ability of the Loan Parties taken as a whole to perform any obligations under this Credit Agreement or any other Loan Documents, (c) the legality, validity, binding effect, enforceability or admissibility into evidence of any Loan Document or the ability of the Administrative Agent or any Lender to enforce any rights or remedies under or in connection with any Loan Document or (d) the perfection or priority of the Administrative Agent's Lien on the Collateral.

"Material Contract" shall mean any contract to which a Loan Party is or becomes a party and (a) that provides for payments by or to any Loan Party in excess of \$1,000,000 in any Fiscal Year or (b) if terminated or released (without replacement) or if the counterparty thereto defaulted in its performance thereof, such termination, release or default would have or would reasonably be expected to result in a Material Adverse Effect.

"Maturity Date" shall mean December 31, 2021.

"Maximum Rate" is defined in Section 11.11.

"Mortgages" means the Leasehold Mortgages and such other mortgages of the Loan Parties' interests in real property as are required by the Administrative Agent and the Lenders, in form and on terms satisfactory to the Administrative Agent and the Lenders.

"Net Cash Proceeds" shall mean (a) with respect to any Asset Sale or casualty loss, the Cash Proceeds therefrom, net of (i) costs of sale (including payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than Loans) required to be repaid under the terms thereof as a result of such Asset Sale), (ii) Taxes paid or reasonably estimated to be payable in the year such Asset Sale occurs or in the following year as a result thereof, (iii) appropriate amounts required to be reserved for post-closing adjustments in connection with such Asset Sale, and (iv) deductions for Indebtedness secured by any assets forming part of such Asset Sale, provided that such Indebtedness is repaid as a result of such Asset Sale; and (b) with respect to any issuance of debt (excluding Intercompany Indebtedness) or equity securities, the cash proceeds thereof, net of underwriting commissions or placement fees and expenses directly incurred in connection therewith.

"Net Income" shall mean, for any period, and without duplication, the net income (or loss) of the Obligor on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, provided that there shall be excluded from such calculation: (a) the net income (or net loss) of any other Person accrued prior to the date it becomes a Subsidiary of, or is merged into or consolidated with, the Person whose Net Income is being determined or a Subsidiary of such Person, (b) the net income (or net loss) of any other Person in which the Person whose Net Income is being determined or any Subsidiary of such Person has an ownership interest that is less than 100%, except, in the case of net income, to the extent that any such income has actually been received by such Person or such Subsidiary in the form of cash dividends or similar distributions, (c) any restoration of any contingency reserve not in the ordinary course of business, except to the extent that provision for such reserve was made out of income during such period, (d) any net gains or losses on the sale or other disposition, not in the ordinary course of business, of any assets, provided that there shall also be excluded any related charges for taxes thereon, (e) any net gain arising from the collection of the proceeds of any insurance policy, (f) any write-up of any asset, and (g) any other non-cash item.

"Non-Competition Agreements" means each of the non-competition agreements delivered in connection with the World Health Acquisition.

"Notice of Borrowing" is defined in Section 2.03.

"Notice of Conversion or Continuation" is defined in Section 2.10.

"Obligation Currency" is defined in Section 11.18(a).

"Obligations" shall mean, without duplication, (a) the due and punctual payment by Borrower of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on

the Loans made to Borrower, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by Borrower in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of LC Disbursements, interest thereon (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral, and (iii) all other monetary obligations of Borrower to any of the Administrative Agent, the Fronting Agent and the Lenders under this Credit Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise, arising under the Loan Documents (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual payment of all the monetary obligations of each other Loan Party under or pursuant to this Credit Agreement and each of the other Loan Documents to which it is a party, (c) the due and punctual payment of all monetary obligations of each Loan Party under each Hedge Arrangement or Swap Agreement that is in effect with a counterparty that is a Lender or an Affiliate of a Lender (even if such party ceases to be a Lender or Affiliate of a Lender thereafter) and (d) the due and punctual payment and performance of all obligations of each Loan Party to a Lender or an Affiliate of a Lender arising from Service Agreements (other than such services provided after (i) the principal of and interest on each Loan and all fees payable hereunder have been paid in full, (ii) the Lenders have no further commitment to lend hereunder, (iii) the LC Exposure has been reduced to zero and (iv) the Fronting Agent has no further obligation to issue Letters of Credit), including obligations in respect of overdrafts, temporary advances, interest and fees.

"Obligor" shall mean each of Holdco, the Borrower and their Subsidiaries from time to time other than Spa Lady (West) Inc., and "Obligors" means all of them together.

"Operating LP" means International Fitness Holdings LP, an Alberta limited partnership.

"Organizational Documents" means, with respect to any Person, such Person's memorandum, notice of Articles, Articles, certificate of incorporation or formation, bylaws, partnership agreement, operating agreement, joint venture agreement or other similar governing documents and any document setting forth the designation, amount or relative rights, limitations and preferences of any class of such Person's capital stock, partnership interests, membership interests or other equivalent interests.

"Other Taxes" is defined in Section 2.20(b).

"Outstanding BAs Collateral" is defined in Section 2.13(a)(ii).

"Pension Plan Event" shall mean that a Governmental Authority gives notice of its intention to terminate, in whole or in part, a Canadian Pension Plan, or to

appoint an administrator of a Canadian Pension Plan, any Loan Party declares or gives notice of intention to declare a wind up of a Canadian Pension Plan, in whole or in part, or any of the Canadian Pension Plans individually or in the aggregate have an unfunded actuarial liability or solvency deficiency (within the meaning of applicable laws) that exceeds \$250,000.

"Permitted Acquisition" is defined in Section 7.04.

"Permitted Acquisition Expenses" means (a) cash consideration paid by a Loan Party to acquire assets, capital stock or a Business Unit in connection with a Permitted Acquisition made in accordance with Section 7.04, (b) bona fide direct costs and expenses incurred as a result of a Permitted Acquisition (including costs and expenses related to the shutdown of facilities and employee severance) to the extent such costs and expenses (i) are capitalized as part of the cost of the Permitted Acquisition in the consolidated financial statements of Borrower and (ii) are paid by the Loan Parties no more than 120 days from the date of a Permitted Acquisition, and (c) bona fide direct costs and expenses paid in connection with a Permitted Acquisition (whether or not such Permitted Acquisition closes), including reasonable commissions and fees and expenses of professional advisors and any title and recordation expenses.

"Permitted Investments" shall mean any of the following:

- (a) any evidence of Indebtedness, maturing not more than one year after the acquisition thereof, issued by the governments of Canada or the United States of America, or any instrumentality or agency thereof and guaranteed fully as to principal, interest and premium, if any, by Canada or the United States of America;
- (b) any guaranteed income certificate, maturing not more than one year after the date of purchase, issued by a commercial banking institution that has long-term debt rated "A" or higher by Moody's Investors Service, Inc. ("Moody's") or Standard & Poor's Ratings Services ("S&P") and which has a combined capital and surplus and undivided profits of not less than \$500,000,000;
- (c) Deposit Accounts with a branch of CIBC;
- (d) loans by a Loan Party to any other Loan Party;
- (e) funds held in trust with a law firm;
- (f) loans made on the Closing Date by the Borrower to employees of the Target in an aggregate amount not to exceed, for all such loans, \$1,250,000 with such loans being used by such employees to purchase Equity Interests in Holdco;
- (g) travel and moving advances given to employees and directors in the ordinary course of business, not to exceed \$25,000 in the aggregate outstanding at any time; and

- (h) to the extent constituting an Investment, any transaction permitted to be consummated pursuant to Section 7.05.

"Permitted Liens" shall mean, with respect to any Person, any of the following:

- (a) Liens for taxes, assessments or other governmental charges or levies not yet due and payable or which are being contested in good faith by appropriate proceedings diligently pursued, provided that full provision for the payment of all such taxes known to such Person has been made on the books of such Person if and to the extent required by GAAP;
- (b) builders', mechanics', materialmen's, carriers', warehousemen's, landlord's and similar Liens arising by operation of law and in the ordinary course of business and securing obligations of such Person that are either (i) less than \$100,000 in the aggregate, or (ii) not overdue for a period of more than 30 days or are being contested in good faith by appropriate proceedings diligently pursued, provided that in the case of any such contest, full provision for the payment and discharge of such Liens has been made on the books of such Person if and to the extent required by GAAP;
- (c) Liens arising in connection with worker's compensation, unemployment insurance, old age pensions and social security benefits that are not overdue or are being contested in good faith by appropriate proceedings diligently pursued, provided that in the case of any such contest, full provision for the payment and discharge of such Liens has been made on the books of such Person if and to the extent required by GAAP;
- (d) (i) Liens incurred or deposits made in the ordinary course of business to secure the performance of bids, tenders, statutory obligations, fee and expense arrangements with trustees and fiscal agents (exclusive of obligations incurred in connection with the borrowing of money or the payment of the deferred purchase price of property) and (ii) Liens (ranking subsequent in priority to the Liens securing the Obligations) incurred in the ordinary course of business securing surety, indemnity, performance, appeal and release bonds, in the case of either clause (i) or (ii), securing such obligations in an amount outstanding at any time not to exceed individually or in the aggregate \$250,000; provided that full provision for the payment of all such obligations has been made on the books of such Person if and to the extent required by GAAP;
- (e) imperfections of title, covenants, restrictions, rights of way, easements, servitudes, mineral interest reservations, municipal and zoning ordinances, general real estate taxes and assessments not yet delinquent and other encumbrances on real property that (i) do not arise out of the incurrence of any Indebtedness for money borrowed and (ii) do not interfere with or impair in any material respect the utility, operation, value or marketability of the real property on which such Lien is imposed;
- (f) leases or subleases granted to others not interfering in any material respect with the business of the Loan Parties and any purchase money

security interest or title of a lessor or financier (whether under a Capital Lease, security agreement, conditional sale or otherwise) permitted by Section 7.02(a)(v), including leases for a term of more than one year (as defined in the PPSA);

- (g) Liens in favour of the Administrative Agent on behalf of the Beneficiaries or otherwise created under the Loan Documents;
- (h) all reservations in the original grant from the Crown of any lands or interests therein and statutory exceptions, qualifications and reservations in respect of title, including Liens granted by public utilities in respect of their interest, if any, in the real property of the Loan Parties;
- (i) Liens in favour of CIBC to secure daylight loans made to a Loan Party in connection with usual and customary operation of bank accounts in connection with the business of Borrower;
- (j) bankers' liens, rights of set-off and other similar liens existing solely with respect to cash and Permitted Investments on deposit in one or more accounts maintained by any Loan Party, in each case, granted in the ordinary course of business in favour of CIBC, securing amounts owing to CIBC with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; and
- (k) Liens consented to in writing by the Administrative Agent.

Any reference in any of the Loan Documents to a Permitted Lien is not intended to and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Lien created by any of the Loan Documents to any Permitted Lien.

"Person" shall mean any natural person, corporation, legal person, business trust, joint venture, association, company, limited liability company, partnership or government, or any agency or political subdivision thereof.

"Pledge Agreements" shall mean the Borrower Pledge Agreement, the Holdco Pledge Agreement and each Subsidiary Pledge Agreement.

"PPSA" shall mean the *Personal Property Security Act* (Alberta).

"Prime Rate" shall mean, for each day in any period, a fluctuating interest rate per annum as shall be in effect from time to time, which rate per annum shall at all times for such day be equal to the higher of (a) the annual rate of interest announced publicly by the Administrative Agent and in effect as its prime rate at its principal office in Toronto, Ontario on such day for determining interest rates on Dollar-denominated commercial loans made in Canada and (b) 1.50% per annum above the one month CDOR Rate in effect on such date. Each change to the Prime Rate shall be effective on the date such change is publicly announced as being effective.

"Purchase Agreement" means the share purchase agreement made on or about July 31, 2014 among, *inter alia*, the Borrower, the Target and the Vendor.

"RAL Vendor" means R.A.L. Consulting Ltd.

"RAL Vendor Subordinated Debt" means the debt in the principal amount, as at the Fifth Closing Date, of \$1,338,333.33 owed to the RAL Vendor by the Borrower which debt shall otherwise have the characteristics of Deeply Subordinated Debt and in which no cash payments of any nature or kind may be made.

"RAL Vendor Subordination Agreement" means the subordination and postponement agreement, in form and substance acceptable to the Administrative Agent among the Borrower, the Administrative Agent and the RAL Vendor in connection with the RAL Vendor Subordinated Debt.

"Real Properties" shall mean each parcel of real property identified on Schedule 4.17, together with all fixtures thereon.

"Register" is defined in Section 11.04(d).

"Related Party" shall mean any Person which is any one or more of the following:

- (a) an Affiliate of a Loan Party;
- (b) any shareholder or partner of any Loan Party;
- (c) an officer or director (or an individual with similar authority and responsibilities) of any of the foregoing;
- (d) the Sponsor; and
- (e) any Person which is not at arm's length (within the meaning of the ITA) from any Loan Party.

"Repayment" is defined in Section 8.03.

"Report" is defined in Section 9.11.

"Required Lenders" shall mean, as of the date of determination thereof, the Lenders having greater than 66 2/3% of the sum of the aggregate principal amount of Loans, LC Exposures and unused Revolving Commitment. For certainty, Trifit Holdings Limited Partnership and its co-investor(s) pursuant to the 2019 Commitments shall not have any voting rights but for those expressly provided for in Section 11.08(c).

"Required Permits" shall mean, with respect to any Loan Party, all authorizations, orders, permits, approvals, grants, licenses, consents, rights, franchises, privileges, certificates, judgments, writs, injunctions, awards, determinations, directions, decrees or demands or the like issued or granted by law or by rule or regulation of any Governmental Authority which are reasonably necessary at any

given time for such Loan Party to own and operate its property, assets, rights and interests or to carry on its business and affairs in the ordinary course.

"Responsible Officer" of any Person shall mean the chief executive officer, president, any Financial Officer, any director or any vice president of such Person and any other officer or similar official thereof responsible for the administration of the obligations of such Person in respect of this Credit Agreement.

"Restricted Payment" shall mean (a) any dividend or other distribution (other than Tax Distributions), direct or indirect, on account of any Equity Interests of any Loan Party, now or hereafter outstanding, (b) any redemption, retirement, sinking fund or similar payment, purchase, exchange or other acquisition for value, direct or indirect, of any Equity Interests of any Loan Party, now or hereafter outstanding, (c) any payment made to redeem, purchase, repurchase or retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire Equity Interests of any Loan Party; (d) any payment of a claim for the rescission of the purchase or sale of, or for material damages arising from the purchase or sale of, any Equity Interests of any Loan Party or of a claim for reimbursement, indemnification or contribution arising out of or related to any such claim for damages or rescission; (e) any payment, loan, contribution, other transfer of funds or other property, or any granting or creation of any rights or interests (other than Permitted Liens and the other Liens described in Section 7.02) to or in favour of any Related Party and payment of compensation to Related Parties who are employees or directors of such Loan Party, in each case, that is not in the ordinary course of business; (f) any payment, prepayment, redemption, repurchase or other retirement, prior to the stated maturity thereof or prior to the due date of any regularly scheduled instalment or amortization payment with respect thereto, of any Indebtedness of a Person (other than the Obligations and trade debt); (g) any payment of premium (if any) interest, or fees in respect of any Indebtedness of a Person (other than the Obligations and trade debt); (h) any payment (including, without limitation, Management Fees) by any Loan Party to any holder of Equity Interests of any Loan Party or its Affiliates; and (i) the payment of any amount (including any deferred purchase price, Earn Out Obligations or other payment payable in shares or other Equity Interests of any Loan Party) to a counterparty in a transaction permitted hereunder (but excluding, for certainty, amounts payable in connection with any Permitted Acquisition).

"Revolving Borrowing" shall mean a Borrowing comprised of Revolving Loans.

"Revolving Commitment" shall mean, with respect to each Revolving Lender, the commitment of such Lender or any assignee thereof to make Revolving Loans as set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender assumed its Revolving Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.08, Section 2.09, or Section 11.04, or (b) increased from time to time pursuant to Section 2.01(e) or assignments by or to such Lender pursuant to Section 2.09, or Section 11.04; and the Revolving Commitment also includes, without duplication, (a) the Swingline Commitment of the Swingline Lender and (b) the Letter of Credit

Commitment of the Fronting Agent (in each case, as a sub-limit of the Revolving Commitment).

"Revolving Credit Utilization" shall mean, at any time of determination, the aggregate principal amount of Revolving Loans outstanding at such time.

"Revolving Lenders" shall mean the Lenders having Revolving Commitments or holding Revolving Loans.

"Revolving Loans" shall mean the revolving loans made by the Revolving Lender to Borrower pursuant to Section 2.01(c) and, in the case of Swingline Loans, loans made by way of overdraft by the Swingline Lender pursuant to Section 2.01(g).

"Sale Proceeds Reinvestment" shall mean the reinvestment by a Loan Party of the net proceeds of Asset Sales in assets used or useful in the business of such Loan Party within 180 days of such Asset Sale.

"Sale/Leaseback Transaction" shall mean an arrangement, direct or indirect, whereby any Loan Party shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred.

"Schedule I Bank" shall mean a bank that is a Canadian chartered bank listed on Schedule I under the *Bank Act* (Canada).

"Second Closing Date" means July 19, 2016.

"Security Agreements" shall mean the Borrower Security Agreement and the Guarantor Security Agreements.

"Security Documents" shall mean the Mortgages, Landlord Agreements, Security Agreements, Pledge Agreements, financing statements and all other similar agreements, assignments, instruments and documents delivered to the Administrative Agent from time to time to create, evidence or perfect Liens securing the Obligations, and all renewals, replacements, consolidations, substitutions and extensions of any of the foregoing.

"Seller Notes" shall mean, collectively, each of the promissory notes identified on Schedule 7.01 to the Original Credit Agreement.

"Service Agreements" means agreements made between any Obligor and a Lender in respect of cash management, payroll, credit card or other banking services and "Service Agreement" means any one of them as required by the context.

"Specified Equity Contribution" is defined in Section 8.03.

"Sponsor" shall mean, collectively, TriWest Capital Partners IV, L.P. and TriWest Capital Partners IV, (US) L.P. and their respective Affiliates.

"Sponsor Subordinated Debt" means the debt in the principal amount, as at the Fifth Closing Date, of \$18,372,500 advanced by Trifit Holdings Limited Partnership to the Borrower or Holdco which debt shall otherwise have the characteristics of Deeply Subordinated Debt and in which no cash payments of any nature or kind may be made.

"Sponsor Subordination Agreement" means the subordination and postponement agreement, in form and substance acceptable to the Administrative Agent among the Borrower, the Administrative Agent and Trifit Holdings Limited Partnership in connection with the Sponsor Subordinated Debt.

"Standard Time" shall mean Eastern standard time or Eastern daylight savings time, as applicable on the relevant date.

"Subordinate Borrowing" shall mean a Borrowing comprised of Subordinate Loans.

"Subordinate Commitment" shall mean the commitment of each Subordinate Lender to make Subordinate Loans as set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender assumed its Subordinate Commitment, as applicable, as such Commitment may be reduced from time to time pursuant to Section 2.09.

"Subordinate Lenders" shall mean the Lenders having Subordinate Commitments or holding Subordinate Loans.

"Subordinate Loans" shall mean the Loans made by the Subordinate Lenders to Borrower pursuant to Section 2.01.

"subsidiary" shall mean, with respect to any Person (herein referred to as the "parent"), any corporation, partnership, association or other business entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership or membership interests are, at the time any determination is being made, owned, controlled or held by, or otherwise Controlled by, the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" shall mean, unless the context indicates otherwise, any direct or indirect subsidiary of Holdco, regardless of whether such subsidiary was formed before, on or after the Closing Date.

"Subsidiary Pledge Agreement" shall mean each pledge agreement in form and substance acceptable to the Administrative Agent, between a Subsidiary and the Administrative Agent, in respect of all shares of capital stock and other Equity Interests of any other Subsidiary from time to time held by, or issued or transferred to, such Subsidiary.

"Surplus Lender" is defined in Section 8.02(b).