

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Original Credit Agreement.

- (a) Closing Documents. The Administrative Agent shall have received each of the following documents, all of which shall be satisfactory in form and substance to the Administrative Agent and Lenders' Counsel:
- (i) this Credit Agreement, complete with Schedules and Exhibits duly executed and delivered by the Parties hereto;
 - (ii) certified copies of the Organizational Documents of each Loan Party as in effect on the Closing Date;
 - (iii) certified copies of all corporate action, including partnership or shareholder approval, if necessary, taken by each Loan Party to authorize the execution, delivery and performance of this Credit Agreement and the other Loan Documents and the Borrowings under this Credit Agreement;
 - (iv) certificates of incumbency and specimen signatures with respect to each of the officers of each Loan Party who is authorized to execute and deliver this Credit Agreement or any other Loan Document on behalf of such Loan Party or any document, certificate or instrument to be delivered in connection with this Credit Agreement or the other Loan Documents and to request borrowings under this Credit Agreement;
 - (v) a certificate evidencing the good standing or equivalent of each Loan Party in the jurisdiction of its incorporation and, with respect to the Loan Parties, in each other jurisdiction in which it is qualified as a foreign corporation to transact business;
 - (vi) evidence satisfactory to the Administrative Agent that financing statements have been filed in the personal property registry or equivalent registry in each jurisdiction where such filing may be necessary or appropriate to perfect the Lender's security interest in the applicable Collateral;
 - (vii) the Security Documents, duly executed and delivered by each applicable Loan Party, together with share or partnership unit certificates and blank stock or partnership powers of attorney for each Loan Party's Equity Interests in the Loan Parties;
 - (viii) the Guarantee Agreements, duly executed and delivered by the Guarantors;
 - (ix) certificates or binders of insurance relating to each of the policies of insurance covering all of the Collateral (other than intangible personal property) together with first loss payable, additional insured and standard mortgage clauses which comply with the terms of the Security Agreements;
 - (x) a detailed statement of sources and uses of funds, and a detailed flow of funds memo, both acceptable to the Administrative Agent and the Lenders, for the Transactions contemplated to occur on the Closing Date;

- (xi) copies of all the financial statements referred to in Section 4.05 and meeting the requirements thereof;
 - (xii) such financial information as the Lenders shall reasonably request, including without limitation a consolidated balance sheet of the Obligors as of the Closing Date, prepared by Borrower on a *pro forma* basis, giving effect to the Loans to be made on the Closing Date and setting forth the assumptions on which such balance sheet was prepared, which balance sheet shall be consistent in all material respects with the sources and uses of funds statement provided in accordance with paragraph (x) above;
 - (xiii) a certificate of a Responsible Officer on behalf of Borrower stating that, to the best of his or her knowledge and based on an examination sufficient to enable him or her to make an informed statement, as of the Closing Date (A) all of the representations and warranties made or deemed to be made under this Credit Agreement are true and correct, both with and without giving effect to the Loans to be made at such time and the application of the proceeds thereof, (B) no Default or Event of Default exists, and (C) there is no applicable law that would restrain, prevent, or impose material adverse conditions upon the effectiveness of the Credit Facilities;
 - (xiv) opinions of Stikeman Elliott LLP and such other local counsel as the Administrative Agent shall deem reasonably necessary or desirable, opining as to such matters in connection with this Credit Agreement as the Administrative Agent or Lenders' Counsel may reasonably request;
 - (xv) an initial Notice of Borrowing executed by Borrower;
 - (xvi) a Compliance Certificate, duly executed by Borrower;
 - (xvii) copies of each of the other Loan Documents duly executed by the parties thereto with evidence satisfactory to the Administrative Agent and Lenders' Counsel of the due authorization, binding effect and enforceability of each such Loan Document on each such party and such other documents and instruments as the Administrative Agent may reasonably request; and
 - (xviii) such other documents, instruments and items as may be reasonably required by the Administrative Agent.
- (b) Seller Notes. The Seller Notes shall have been paid in full concurrent with the closing of the World Health Acquisition.
 - (c) WHEI Intercreditor Agreement. The Administrative Agent shall have received a duly executed copy of the WHEI Intercreditor Agreement.
 - (d) Ownership of Holdco and the Borrower. Holdco shall directly own 100% of the voting and economic interest in the Borrower. The Sponsor shall indirectly own not less than 50.1% of the voting and economic interest in Holdco.
 - (e) Due Diligence Review. The Administrative Agent and the Lenders shall be satisfied in all respects with the results of their own and third party due diligence and review of the

Loan Parties (including, without limitation, business, financial, accounting, tax, insurance, legal, ownership, corporate governance, and environmental due diligence), the organizational structure of the Loan Parties, the management and management operations of the Loan Parties, and the operating, information, management, technical, financial control and other systems of the Loan Parties.

- (f) Total Leverage Ratio. The Administrative Agent and the Lenders shall have received satisfactory evidence that the Total Leverage Ratio, calculated on a *pro forma* basis using consolidated Indebtedness of the Obligors after giving effect to the incurrence of the initial Loans, does not exceed 3.35 to 1.00.
- (g) Total Indebtedness to Total Capitalization. The Administrative Agent and the Lenders shall have received satisfactory evidence that the Total Indebtedness (excluding Sponsor Subordinated Debt and Vendor Subordinated Debt and less cash on the balance sheet immediately following the Closing Date) to Total Capitalization ratio of the Borrower, on a *pro forma* basis after giving effect to the World Health Acquisition, is no greater than 53%.
- (h) Equity Contribution. The Administrative Agent shall be satisfied that no less than \$34,250,000 of equity shall have been contributed to Holdco to assist in the completion of the World Health Acquisition which shall consist of no less than \$27,750,000 being contributed from Sponsor and \$6,500,000 consisting of rolled-over and newly contributed equity from the Vendor and certain other parties.
- (i) Sponsor Subordinated Debt. The Borrower shall have incurred the Sponsor Subordinated Debt in an amount of no less than \$30,585,000, with such terms applicable to the Sponsor Subordinated Debt to be in form and substance satisfactory to the Administrative Agent.
- (j) Vendor Subordinated Debt. The Vendor shall be owed by Holdco or the Borrower the Vendor Subordinated Debt in an amount of \$915,000, with such terms applicable to the Vendor Subordinated Debt to be in form and substance satisfactory to the Administrative Agent.
- (k) No Default. The Administrative Agent shall have received an officer's certificate certifying that no Default or Event of Default shall have occurred and shall then be continuing on such date or will occur after giving effect to this Credit Agreement, and any default (howsoever defined) under any Material Contract that may result from the entering into of the Loan Documents shall have been resolved or otherwise addressed in a manner satisfactory to the Lenders.
- (l) No Material Adverse Effect. Since December 31, 2013, nothing shall have occurred (and neither the Administrative Agent nor any Lender shall have become aware of any facts or conditions not previously known) which the Administrative Agent shall reasonably determine has or is reasonably likely to have (i) a Material Adverse Effect on the rights or remedies of the Administrative Agent or the Lenders, or on the ability of the Loan Parties to perform their obligations to the Lenders or which is reasonably likely to constitute or give rise to any condition or change that would reasonably be expected to have a Material Adverse Effect, or (ii) a material adverse change in the business, operations, condition (financial or otherwise) or prospects of the Loan Parties taken as a

whole, and the Administrative Agent shall have received an officer's certificate to such effect.

- (m) Repayment of Indebtedness. The Administrative Agent shall have received fully executed payoff letters, satisfactory to it confirming that (i) all Indebtedness of the Borrower (other than Indebtedness permitted hereunder) shall have been repaid in full and (ii) all credit facilities or commitments to make extensions of credit to the Borrower (other than credit facilities or commitments permitted hereunder) shall have been cancelled and terminated. The Administrative Agent shall have received an officer's certificate confirming that after giving effect to the initial Loans, the Loan Parties shall (A) have no outstanding Indebtedness other than the Sponsor Subordinated Debt and the Vendor Subordinated Debt, Indebtedness owing between Loan Parties, contingent indemnity liabilities relating to the Edmonton Transaction, the initial Loans and Letters of Credit issued hereunder, and Capital Lease Obligations and Obligations in respect of purchase money financings, in each case, permitted hereunder, or (B) not have issued any direct or indirect guarantees or other credit support to any Person, except in connection with the obligations described in clause (A) hereof.
- (n) Release of Security Interests. The Administrative Agent shall have received evidence satisfactory to it of the release and termination of all Liens on Collateral other than Permitted Liens and the other Liens described in Section 7.02.
- (o) Financial Statements. The Lenders shall have received a pro forma consolidated balance sheet of the Borrower dated as of the date of the most recently available financial statements after giving effect to the World Health Acquisition. The Borrower shall also have provided such other financial information as the Lender may reasonably request in connection with the World Health Acquisition.
- (p) Projections. The Lenders shall have received and satisfactorily reviewed projections with respect to the Borrower from fiscal year 2014 to fiscal year 2018 (prepared on a quarterly basis for the first 2 years following the Closing Date). The Lenders shall be satisfied, acting reasonably and based on financial statements (actual and pro forma), projections and other evidence provided by the Borrower, or requested by the Lenders, that the Borrower, after incurring the indebtedness contemplated by the Credit Facility, shall be solvent, able to satisfy its obligations as they mature and remain adequately capitalized.
- (q) Quality of Earnings. The Lenders shall have received audited financial statements of the Target for the fiscal year ended December 31, 2013 along with a detailed Quality of Earnings report of the Target evidencing EBITDA of the Target for the twelve month period-ended May 31, 2014 is not less than \$13,500,000.
- (r) Fees. All reasonable costs, fees, expenses (including the reasonable legal fees and expenses of Lenders' Counsel, and such other local counsel or agents retained by the Lenders in connection with the Loans) and other compensation contemplated thereby, payable to the Administrative Agent, and the Lenders shall have been paid on the Closing Date.
- (s) Borrower's Deposit Account. Borrower shall have opened a Deposit Account with a branch of the Swingline Lender.

- (t) Material Contracts. The Administrative Agent and the Lenders shall have received copies of, and shall have completed a review of, all material contracts of the Loan Parties, and shall be satisfied with the results of such review.

Section 5.03 Conditions Precedent to the Second Closing Date. The effectiveness of the Restated Credit Agreement was subject to the fulfillment of each of the following conditions:

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Second Restated Credit Agreement.

- (a) Closing Documents. The Administrative Agent shall have received each of the following documents, all of which shall be satisfactory in form and substance to the Administrative Agent and Lenders' Counsel:
- (i) this Credit Agreement, complete with Schedules and Exhibits duly executed and delivered by the parties hereto;
 - (ii) certified copies of the Organizational Documents of the Borrower as in effect on the Second Closing Date;
 - (iii) certified copies of all corporate action, including shareholder approval, if necessary, taken by the Borrower to authorize the execution, delivery and performance of this Credit Agreement and the other Loan Documents and the Borrowings under this Credit Agreement;
 - (iv) certificates of incumbency and specimen signatures with respect to each of the officers of the Borrower who is authorized to execute and deliver this Credit Agreement or any other Loan Document on behalf of the Borrower or any document, certificate or instrument to be delivered in connection with this Credit Agreement or the other Loan Documents and to request borrowings under this Credit Agreement;
 - (v) a certificate evidencing the good standing or equivalent of the Borrower in the jurisdiction of its incorporation and in each other jurisdiction in which it is qualified as a foreign corporation to transact business;
 - (vi) certificates or binders of insurance relating to each of the policies of insurance covering all of the Collateral (other than intangible personal property) together with first loss payable, additional insured and standard mortgage clauses which comply with the terms of the Security Agreements;
 - (vii) a certificate of a Responsible Officer on behalf of Borrower stating that, to the best of his or her knowledge and based on an examination sufficient to enable him or her to make an informed statement, as of the Second Closing Date (A) all of the representations and warranties made or deemed to be made under this Credit Agreement are true and correct, both with and without giving effect to the Loans to be made at such time and the application of the proceeds thereof, (B) no Default or Event of Default exists, and (C) there is no applicable law that would restrain, prevent, or impose material adverse conditions upon the effectiveness of the Credit Facilities;

- (viii) opinions of Stikeman Elliott LLP, opining as to such matters in connection with this Credit Agreement as the Administrative Agent or Lenders' Counsel may reasonably request;
 - (ix) the Fee Letter;
 - (x) an acknowledgement and confirmation from the Borrower and each Guarantor as to the effectiveness of its Guarantee, if applicable, and the Security Documents delivered by it;
 - (xi) a Compliance Certificate duly executed by Borrower;
 - (xii) copies of each of the other Loan Documents duly executed by the parties thereto with evidence satisfactory to the Administrative Agent and Lenders' Counsel of the due authorization, binding effect and enforceability of each such Loan Document on each such party and such other documents and instruments as the Administrative Agent may reasonably request; and
 - (xiii) such other documents, instruments and items as may be reasonably required by the Administrative Agent.
- (b) Capital Contribution. The Borrower shall have received the Capital Contribution on or prior to the Second Closing Date, with such terms applicable to the Capital Contribution to be in form and substance satisfactory to the Administrative Agent and the Administrative Agent shall have received a certified copy of each promissory note related thereto and subordination and postponement agreements in respect thereof.
- (c) Subordinated Debt. The Administrative Agent shall have received a certified copy of the amended and restated promissory notes with respect to the 883 Vendor Subordinated Debt, RAL Vendor Subordinated Debt and the Sponsor Subordinated Debt.
- (d) No Default. The Administrative Agent shall have received an officer's certificate certifying that no Default or Event of Default shall have occurred and shall then be continuing on such date or will occur after giving effect to this Credit Agreement, and any default (howsoever defined) under any Material Contract that may result from the entering into of the Loan Documents shall have been resolved or otherwise addressed in a manner satisfactory to the Lenders.
- (e) Fees. All reasonable costs, fees, expenses (including the reasonable legal fees and expenses of Lenders' Counsel, and such other local counsel or agents retained by the Lenders in connection with the Loans) and other compensation contemplated thereby, payable to the Administrative Agent, and the Lenders shall have been paid on the Second Closing Date.

Section 5.04 Conditions Precedent to the Fourth Closing Date. The effectiveness of this Credit Agreement are subject to the fulfillment of each of the following conditions:

- (a) Closing Documents. The Administrative Agent shall have received each of the following documents, all of which shall be satisfactory in form and substance to the Administrative Agent and Lenders' Counsel:

- (i) this Credit Agreement, complete with Schedules and Exhibits duly executed and delivered by the parties hereto;
- (ii) certified copies of the Organizational Documents of the Borrower as in effect on the Fourth Closing Date;
- (iii) certified copies of all corporate action, including shareholder approval, if necessary, taken by the Borrower to authorize the execution, delivery and performance of this Credit Agreement and the other Loan Documents and the Borrowings under this Credit Agreement;
- (iv) certificates of incumbency and specimen signatures with respect to each of the officers of the Borrower who is authorized to execute and deliver this Credit Agreement or any other Loan Document on behalf of the Borrower or any document, certificate or instrument to be delivered in connection with this Credit Agreement or the other Loan Documents and to request borrowings under this Credit Agreement;
- (v) a certificate evidencing the good standing or equivalent of the Borrower in the jurisdiction of its incorporation and in each other jurisdiction in which it is qualified as a foreign corporation to transact business;
- (vi) certificates or binders of insurance relating to each of the policies of insurance covering all of the Collateral (other than intangible personal property) together with first loss payable, additional insured and standard mortgage clauses which comply with the terms of the Security Agreements;
- (vii) a certificate of a Responsible Officer on behalf of Borrower stating that, to the best of his or her knowledge and based on an examination sufficient to enable him or her to make an informed statement, as of the Fourth Closing Date (A) all of the representations and warranties made or deemed to be made under this Credit Agreement are true and correct, both with and without giving effect to the Loans to be made at such time and the application of the proceeds thereof, (B) no Default or Event of Default exists, and (C) there is no applicable law that would restrain, prevent, or impose material adverse conditions upon the effectiveness of the Credit Facilities;
- (viii) opinions of Stikeman Elliott LLP, opining as to such matters in connection with this Credit Agreement as the Administrative Agent or Lenders' Counsel may reasonably request;
- (ix) the Fee Letter;
- (x) an acknowledgement and confirmation from the Borrower and each Guarantor as to the effectiveness of its Guarantee, if applicable, and the Security Documents delivered by it;
- (xi) an amendment to each TriWest Guarantee providing for a modification to Section 6 of each Guarantee so that the Guarantee can be demanded should Revolving Credit Utilization exceed \$4,500,000 (rather than \$2,850,000);

- (xii) a Compliance Certificate duly executed by Borrower;
 - (xiii) copies of each of the other Loan Documents duly executed by the parties thereto with evidence satisfactory to the Administrative Agent and Lenders' Counsel of the due authorization, binding effect and enforceability of each such Loan Document on each such party and such other documents and instruments as the Administrative Agent may reasonably request; and
 - (xiv) such other documents, instruments and items as may be reasonably required by the Administrative Agent.
- (b) 2018 Capital Contribution. Holdco (and thereafter the Borrower as general partner of World Health North LP) shall have received the 2018 Capital Contribution on or prior to the Fourth Closing Date, with such terms applicable to the 2018 Capital Contribution to be in form and substance satisfactory to the Administrative Agent and the Administrative Agent shall have received a certified copy of each promissory note related thereto and subordination and postponement agreements in respect thereof.
- (c) [INTENTIONALLY DELETED]
- (d) WH Edmonton Acquisition. The Administrative Agent shall receive a certified copy of the WH Edmonton Purchase Agreement and shall be satisfied with the terms thereof and the WH Edmonton Acquisition shall occur concurrent with the execution and delivery of this agreement in accordance with the terms of such purchase agreement.
- (e) Security Matters. The Administrative Agent shall have made such filings and registrations and shall have received such documents (including, for certainty, a guarantee and general security agreement and pledge of equity interests from World Health North LP that it requires (including certified copies of leases and landlord consent reliance confirmation) in connection with the Collateral required pursuant to the WH Edmonton Acquisition.
- (f) Subordinated Debt. The Administrative Agent shall have received a certified copy of the amended and restated promissory notes with respect to the 883 Vendor Subordinated Debt, RAL Vendor Subordinated Debt and the Sponsor Subordinated Debt and a confirmation from such subordinate lender as to the continuing effectiveness of that subordination agreement.
- (g) No Default. The Administrative Agent shall have received an officer's certificate certifying that no Default or Event of Default shall have occurred and shall then be continuing on such date or will occur after giving effect to this Credit Agreement, and any default (howsoever defined) under any Material Contract that may result from the entering into of the Loan Documents shall have been resolved or otherwise addressed in a manner satisfactory to the Lenders.
- (h) Fees. All reasonable costs, fees, expenses (including the reasonable legal fees and expenses of Lenders' Counsel, and such other local counsel or agents retained by the Lenders in connection with the Loans) and other compensation contemplated thereby, payable to the Administrative Agent, and the Lenders shall have been paid on the Fourth Closing Date.

Section 5.05 Conditions Precedent to the Fifth Closing Date. Notwithstanding any other provision of this Credit Agreement, the effectiveness of this Credit Agreement are subject to the fulfillment of each of the following conditions:

- (a) Closing Documents. The Administrative Agent shall have received each of the following documents, all of which shall be satisfactory in form and substance to the Administrative Agent and Lenders' Counsel:
- (i) this Credit Agreement, complete with Schedules and Exhibits duly executed and delivered by the parties hereto;
 - (ii) certified copies of the Organizational Documents of the Borrower as in effect on the Fifth Closing Date;
 - (iii) certified copies of all corporate action, including shareholder approval, if necessary, taken by the Borrower to authorize the execution, delivery and performance of this Credit Agreement and the other Loan Documents and the Borrowings under this Credit Agreement;
 - (iv) certificates of incumbency and specimen signatures with respect to each of the officers of the Borrower who is authorized to execute and deliver this Credit Agreement or any other Loan Document on behalf of the Borrower or any document, certificate or instrument to be delivered in connection with this Credit Agreement or the other Loan Documents and to request borrowings under this Credit Agreement;
 - (v) a certificate evidencing the good standing or equivalent of the Borrower in the jurisdiction of its incorporation and in each other jurisdiction in which it is qualified as a foreign corporation to transact business;
 - (vi) certificates or binders of insurance relating to each of the policies of insurance covering all of the Collateral (other than intangible personal property) together with first loss payable, additional insured and standard mortgage clauses which comply with the terms of the Security Agreements;
 - (vii) a certificate of a Responsible Officer on behalf of Borrower stating that, to the best of his or her knowledge and based on an examination sufficient to enable him or her to make an informed statement, as of the Fifth Closing Date (A) all of the representations and warranties made or deemed to be made under this Credit Agreement are true and correct, both with and without giving effect to the Loans to be made at such time and the application of the proceeds thereof, (B) no Default or Event of Default exists, and (C) there is no applicable law that would restrain, prevent, or impose material adverse conditions upon the effectiveness of the Credit Facilities;
 - (viii) opinions of Stikeman Elliott LLP, opining as to such matters in connection with this Credit Agreement as the Administrative Agent or Lenders' Counsel may reasonably request;

- (ix) an acknowledgement and confirmation from the Borrower and each Guarantor as to the effectiveness of its Guarantee, if applicable, and the Security Documents delivered by it;
 - (x) a Compliance Certificate duly executed by Borrower;
 - (xi) such other documents, instruments and items as may be reasonably required by the Administrative Agent.
- (b) Warrant. CIBC shall have received the Warrant and an agreement amongst shareholders of the Borrower outlining their rights as a shareholder following exercise of the Warrant.
- (c) Subordinated Debt. The Administrative Agent shall have received a certified copy of the amended and restated promissory notes with respect to the 883 Vendor Subordinated Debt, RAL Vendor Subordinated Debt and the Sponsor Subordinated Debt and a confirmation from such subordinate lender as to the continuing effectiveness of that subordination agreement.
- (d) Business Plan/Budget. The Administrative Agent shall have received and approved the detailed budget from the Borrower attached hereto as Schedule 5.05(d).
- (e) No Default. The Administrative Agent shall have received an officer's certificate certifying that no Default or Event of Default shall have occurred and shall then be continuing on such date or will occur after giving effect to this Credit Agreement, and any default (howsoever defined) under any Material Contract that may result from the entering into of the Loan Documents shall have been resolved or otherwise addressed in a manner satisfactory to the Lenders.
- (f) Fees. All reasonable costs, fees, expenses (including the reasonable legal fees and expenses of Lenders' Counsel, and such other local counsel or agents retained by the Lenders in connection with the Loans) and other compensation contemplated thereby, payable to the Administrative Agent, and the Lenders shall have been paid on the Fifth Closing Date.

ARTICLE VI AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees with each Lender, the Administrative Agent, and the Fronting Agent, until the Obligations are paid in full (other than contingent indemnity Obligations), unless the Required Lenders shall otherwise consent in writing, that it will and that it shall cause each Loan Party to:

Section 6.01 Performance of Obligations. In the case of Borrower, duly and punctually pay the principal of all Loans, all interest thereon and all fees and other amounts required to be paid by it hereunder in the manner specified hereunder, and in the case of Borrower and each Loan Party, perform and observe all of its obligations under this Credit Agreement and under any other Loan Document to which it is a party.

Section 6.02 Preservation of Existence and Similar Matters. Preserve and maintain its corporate or other organizational existence, Required Permits, rights, franchises, licenses and

privileges in the jurisdiction of its formation (which shall not change without the prior written consent of the Administrative Agent) and qualify and remain qualified as a foreign corporation or other organization and authorized to do business in each jurisdiction in which the character of its properties or the nature of its business requires such qualification or authorization, except where the failure to be so qualified as a foreign corporation or other organization would not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, or other transaction permitted by Section 7.05.

Section 6.03 Maintenance of Property. Do or cause to be done, all things necessary or required to have all its respective properties, assets and operations owned, operated and maintained in accordance with diligent and prudent industry practice and applicable laws except to the extent that the failure to do or cause to be done the same would not have and would not reasonably be expected to have a Material Adverse Effect, and at all times cause the same to be owned, operated, maintained and used in compliance with all terms of any applicable insurance policy to the extent necessary to ensure that coverage under any such policy cannot be denied by the insurers thereunder.

Section 6.04 Insurance. Keep its insurable properties adequately insured at all times by financially sound and reputable insurers; maintain such other insurance, to such extent and against such risks, including fire and other risks insured against by extended coverage, as is usually maintained in the same general area by companies engaged in the same or similar businesses, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it or the use of any products sold by it; and maintain such other insurance as may be required by law.

Section 6.05 Payment of Taxes, Obligations, Claims, Withholdings.

- (a) Pay or discharge when due (i) all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or upon any properties belonging to it and (ii) all lawful claims of builders, materialmen, mechanics, carriers, warehousemen and landlords for labour, materials, supplies and rentals which, if unpaid, might become a Lien on any properties of the Loan Parties or the Collateral charged by the Security Documents, except that this Section 6.05 shall not require the payment or discharge of any such tax, assessment, charge, levy or claim which is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP and such contest operates to suspend enforcement of a Lien and there is no material risk of forfeiture of such property;
- (b) Make and remit all withholdings, lawfully levied, assessed or imposed upon such Loan Party, or any of its assets, as and when the same become due and payable, except when the validity of any such withholdings are being contested in accordance with Section 6.05(a); and
- (c) From time to time pay when due or cause to be paid when due all material amounts related to wages, workers' compensation obligations, government royalties or pension fund obligations and any other amount which may result in a Lien, charge, or similar encumbrance against the assets of such Loan Party arising under statute or regulation, except when and so long as the validity of any such material amounts or other obligations is being contested in accordance with Section 6.05(a).

Section 6.06 Financial Statements, Reports, etc. Furnish to the Administrative Agent and each Lender:

- (a) as soon as available, but in any event, within 90 days after the end of each Fiscal Year: a consolidating balance sheet and related statements of income and cash flow (including a comparison to the previous year's actual results and current year's budget), showing the financial condition of the Obligors as of the close of such Fiscal Year and the results of the operations of the Obligors during such Fiscal Year, all audited by a "Big Four" or other nationally or regionally recognized independent public accounting firm reasonably acceptable to the Lender along with a written statement of Borrower's management setting forth an overview of the Obligor's financial performance for such Fiscal Year and a discussion of the outlook for the Obligor's business;
- (b) as soon as available, but in any event within 45 days after the end of each Fiscal Quarter of each Fiscal Year: (i) an unaudited consolidated balance sheet and related statements of income and cash flow (including a comparison to the previous year's actual results and current year's budget), showing the financial condition of the Obligors as of the close of such Fiscal Quarter and the results of the operations of the Obligors during such Fiscal Quarter and the then-elapsed portion of the Fiscal Year (it being understood that such information shall be in reasonable detail and certified by a Financial Officer of Borrower, as fairly presenting in all material respects the financial condition and results of operations of the Obligors on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of notes); and (ii) a summary of all assets acquired by the Loan Parties during that Fiscal Quarter along with a written statement of Borrower's management setting forth an overview of the Obligor's financial performance for such Fiscal Quarter and a discussion of the outlook for the Obligor's business;
- (c) as soon as available, but in any event within 45 days after the end of each calendar month: (i) an unaudited consolidated balance sheet and related statements of income and cash flow, showing the financial condition of the Obligors as of the close of such month and the results of the operations of the Obligors during such month and the then-elapsed portion of the Fiscal Year (it being understood that such information shall be in reasonable detail and certified by a Financial Officer of Borrower, as fairly presenting in all material respects the financial condition and results of operations of the Obligors on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of notes); (ii) along with a written statement of Borrower's management setting forth an overview of the Obligors' financial performance for such month, including a discussion of construction progress for new fitness clubs and Capital Expenditures relative to budgeted amounts; (iii) along with a detailed breakdown of all Capital Expenditures incurred during such calendar month and identifying the project to which such Capital Expenditures relate along with a comparison to budget, (iv) a summary of revised cost reductions and WH Edmonton Acquisition synergies with a comparison to budget, and (v) a comparison of the actual results of operations against the projections contained in the business plan and budget delivered pursuant to Section 5.05(d);
- (d) as soon as available, but in any event within 15 days after the end of each calendar month, a written statement of Borrower's management setting forth an overview of the Obligors' revenues and memberships for fitness clubs relative to budget and re-branding;

- (e) within two (2) Business Days of the end of each calendar week, a weekly rolling 13-week cash flow forecast of the Borrower, in form and substance satisfactory to the Administrative Agent, acting reasonably;
- (f) concurrently with any delivery of financial statements of Borrower under paragraphs (a), (b) and (c) above, a duly completed compliance certificate in the form of Exhibit D (a "Compliance Certificate"), with appropriate insertions, dated the date of such annual report or such quarterly statements and signed by a Financial Officer of Borrower, containing (i) a written statement to the effect that such officer has not become aware of any Default or Event of Default that has occurred and is continuing or, if there is any such event, describing it and the steps, if any, being taken to cure it, and (ii) a computation of each of the financial ratios and restrictions set forth in Article VII and, in the case of a Compliance Certificate delivered concurrently with the financial statements delivered pursuant to paragraph (a) above, a computation of Excess Cash Flow;
- (g) as soon as available, but in any event no later than 30 days after the end of each Fiscal Year, forecasted financial statements, prepared by Borrower, consisting of a consolidated balance sheet, cash flow statement and income statement of the Obligors on a consolidated basis, reflecting projected Borrowings hereunder and setting forth the assumptions on which such forecasted financial statements were prepared, covering the one-year period until the next Fiscal Year end and prepared on a month-by-month basis to be in form and substance satisfactory to CIBC and approved by CIBC in its discretion; all such projected financial statements shall contain projected calculations of the covenants contained in Section 7.13 and Section 7.14; and
- (h) promptly from time to time, such other information regarding the operations, business affairs and financial condition of the Loan Parties, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request.

Section 6.07 Litigation and Other Notices. Furnish to the Administrative Agent and each Lender written notice of the following promptly upon a Responsible Officer of such Loan Party obtaining knowledge thereof:

- (a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;
- (b) the filing or commencement of, or any written notice to such Loan Party of the intention of any Person to file or commence, any action, suit or proceeding (whether at law or in equity or by or before any Governmental Authority or any arbitrator) against such Loan Party that, if adversely determined, would reasonably be expected to result in monetary liability in excess of \$250,000 or have a Material Adverse Effect;
- (c) any development that has resulted in, or would reasonably be anticipated to result in, a Material Adverse Effect;
- (d) the occurrence of any Pension Plan Event that, alone or together with other Pension Plan Events, would reasonably be expected to result in liability of the Loan Parties in an aggregate amount exceeding \$250,000;
- (e) any material amendment of any Organizational Document of such Loan Party that is adverse to the interests of the Lenders hereunder;

- (f) any change in the executive officers of such Loan Party; and
- (g) any event that constitutes or that, with the passage of time or giving of notice or both, would constitute a default or event of default (howsoever defined) by such Loan Party under any Material Contract (other than this Credit Agreement) to which such Loan Party is a party or by which such Loan Party or any of its property may be bound if the exercise of remedies thereunder by the other party to such agreement would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 6.08 Maintaining Records; Access to Properties and Inspections. Maintain its books and records in accordance with sound business practices sufficient to allow the preparation of financial statements in accordance with GAAP; permit, at any reasonable time and with reasonable notice (or at any time without notice if an Event of Default exists), any Lender, the Administrative Agent, or any of their respective representatives to inspect the properties and operations of such Loan Party; and permit, at any reasonable time and with reasonable notice (or at any time without notice if an Event of Default exists), any Lender, the Administrative Agent, or any of their respective representatives to visit any or all of its offices, to discuss its financial matters with its officers and its independent auditors (and Borrower hereby authorizes such independent auditors to discuss such financial matters with any Lender, the Administrative Agent, or any of their respective representatives), and to examine (and, at the expense of Borrower, photocopy extracts from) any of its books or other records; and at any reasonable time and with reasonable notice permit the Administrative Agent and its representatives to inspect the inventory and other tangible assets of the Loan Parties, to perform appraisals of the equipment of the Loan Parties, and to inspect, audit, check and make copies of and extracts from the books, records, computer data, computer programs, journals, orders, receipts, correspondence and other data relating to the inventory, Accounts and other Collateral which shall be limited to once per Fiscal Year unless a Default or Event of Default exists. All reasonable costs of such inspections or audits by the Administrative Agent shall be at Borrower's expense, provided that so long as no Default or Event of Default exists, Borrower shall not be required to reimburse the Administrative Agent for Collateral inspections or audits more frequently than once each Fiscal Year.

Section 6.09 Use of Proceeds. Use the proceeds of Loans and request the issuance of Letters of Credit only for the purposes set forth in Section 2.04.

Section 6.10 Compliance with Law. Comply with the requirements of all applicable laws (including Environmental Laws), rules, regulations and decrees, directives and orders of any Governmental Authority that are applicable to it or to any of its properties, except where non-compliance would not reasonably be expected to have a Material Adverse Effect.

Section 6.11 Further Assurances.

- (a) Execute any and all further documents, financing statements, agreements and instruments, and take all further action (including filing PPSA and other financing statements, registrations, mortgages, deeds of trust and obtaining of Landlord Agreements), that may be required under applicable law or which the Required Lenders or the Administrative Agent may reasonably request, in order to effectuate the transactions contemplated by the Loan Documents and in order to grant, preserve, protect and perfect the validity and priority of the security interests and hypothecs created or intended to be created by the Security Documents.

- (b) Cause each Subsidiary (other than Spa Lady (West) Inc.) to become a party to a Guarantee Agreement and the appropriate Security Documents required to be provided by Loan Parties hereunder.
- (c) From time to time, such Loan Party will, at its cost and expense, promptly secure the Obligations by pledging or creating, or causing to be pledged or created, perfected security interests and Liens with respect to (i) its present and future real and personal assets and properties, (ii) all Equity Interests in such Loan Party, and (iii) all Intercorporate Indebtedness owed to such Loan Party by any other Loan Party. Such security interests and Liens will be created under the Security Documents and other security agreements, mortgages, deeds of trust and other instruments and documents in form and substance reasonably satisfactory to the Administrative Agent, and such Loan Party shall deliver or cause to be delivered to the Administrative Agent all such (A) certificates representing such Equity Interests (together with executed blank stock powers in connection therewith), (B) promissory notes, instruments, or other chattel paper representing such Intercorporate Indebtedness (together with executed blank allonges or other instruments of transfer in connection therewith), and (C) other instruments and documents (including customary legal opinions, title insurance policies or title opinions and lien searches) as the Administrative Agent shall reasonably request to evidence compliance with this paragraph (c). Such Loan Party agrees to provide such evidence as the Administrative Agent shall reasonably request as to the perfection and priority status of each such security interest and Lien.
- (d) At the Administrative Agent's request, amend any Security Document to reflect any change to the laws of Canada and Alberta applicable thereto, whether arising as a result of statutory amendments, court decisions or otherwise, in order to confer upon the Administrative Agent the Lien intended to be created thereby.

Section 6.12 Material Contracts. Comply in all material respects with each Material Contract, and maintain in full force and effect (including exercising any available renewal option), and without amendment or modification, each Material Contract, unless the failure so to maintain any such Material Contract (or any amendment or modification thereto) would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

Section 6.13 Environmental Matters.

- (a) Promptly give notice to the Administrative Agent upon becoming aware of (i) any violation of any Environmental Law, (ii) any claim, inquiry, proceeding, investigation or other action, including a request for information or a notice of potential liability under any Environmental Law, by or from any Governmental Authority or any third party claimant or (iii) the discovery of the release of any Hazardous Substance at, on, under or from any of the Real Properties or any facility or equipment thereat in excess of reportable or allowable standards or levels under any Environmental Law, in each case in a manner or amount that would result in liability in excess of \$500,000 under any Environmental Law, or have a Material Adverse Effect.
- (b) Upon discovery of the presence on any of the Real Properties of any Hazardous Substance that is in violation of, or that would reasonably be expected to result in liability in excess of \$500,000 under, any Environmental Law, or have a Material Adverse Effect, take or cause to be taken all necessary steps to initiate and expeditiously complete all

remedial, corrective and other action to eliminate any such adverse effect, and keep the Administrative Agent reasonably informed of such actions and the results thereof.

Section 6.14 Conduct of Business. Engage only in businesses in substantially the same fields as the businesses conducted on the Fifth Closing Date and in similar or related businesses that are reasonable extensions or additions to such Loan Party's business on the Fifth Closing Date.

Section 6.15 Accuracy of Information. Cause all written information, reports, statements, certificates, financial statements and other papers and data furnished to the Administrative Agent or any Lender, whether pursuant to Article VI or any other provision of this Credit Agreement or any of the other Loan Documents, to be, at the time the same is so furnished, true, complete and correct in all material respects to the extent necessary to give the Administrative Agent and the Lenders true and accurate knowledge of the subject matter thereof.

Section 6.16 Revisions or Updates to Schedules. Should any of the information or disclosures provided on any of the Schedules originally attached hereto become outdated or incorrect in any material respect, provide promptly to the Administrative Agent and each Lender such revisions or updates to such Schedule(s) as may be necessary or appropriate to update or correct such Schedule(s); provided that no such revisions or updates to any Schedule(s) shall be deemed to have cured any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule(s) unless and until the Required Lenders, in their sole discretion, shall have accepted in writing such revisions or updates to such Schedule(s). The Required Lenders shall be deemed to have accepted any such revisions or updates if they do not object to such revisions or updates within 30 days of receipt thereof. Upon any such acceptance or deemed acceptance by the Required Lenders of any such revisions or updates to any Schedule, this Credit Agreement shall be deemed to be amended accordingly.

Section 6.17 Deposit Accounts. Cause all Deposit Accounts of any Loan Party to be maintained with a branch of the Swingline Lender.

Section 6.18 Holdco. Cause Holdco to engage in no business or activities other than (i) its ownership of the Equity Interests of Borrower and the Subsidiaries, (ii) management of Borrower, (iii) the issuance of Equity Interests in Holdco and the investment of any proceeds therefrom in Borrower or the Subsidiaries, (iv) entering into contracts and incurring other obligations incidental to maintenance of its corporate existence or otherwise in the ordinary course of business of Holdco, and (v) performing its obligations under the Loan Documents to which it is a party; provided that at no time shall Holdco own any property or assets other than its Equity Interests in Borrower and its Subsidiaries.

Section 6.19 Intellectual Property. Have and maintain the legal right to use, all intellectual property necessary for the operation and conduct of such Loan Party's business, affairs, operations and processes.

Section 6.20 New Locations. Prior to commencing the development of any new Spa Lady or World Health location for the Business, the Borrower shall have received the prior written consent of the Lenders.

Section 6.21 Board Observer. Permit CIBC to have and maintain observer status on the board of directors of the Borrower.

Section 6.22 CRO. Within 15 days of the Fifth Closing Date, the Borrower shall have hired (who shall commence work immediately) a chief restructuring officer on terms (including, without limitation, mandate, authority, compensation and reporting) satisfactory to the Lenders, in its sole discretion.

Section 6.23 Business Plan. Within 60 days of the Fifth Closing Date, provide to the Agent a draft of the Master Plan for approval by CIBC, in its sole discretion. Prior to any amendment to the Master Plan, provide a draft to CIBC for its review and approval, in its sole discretion.

ARTICLE VII NEGATIVE COVENANTS

The Borrower hereto covenants and agrees with each Lender, the Administrative Agent, and the Fronting Agent, until the Obligations are paid in full (other than contingent indemnity Obligations), unless the Required Lenders shall otherwise consent in writing, that it will not and shall ensure that each Loan Party shall not:

Section 7.01 Indebtedness. Create, incur, assume or permit to exist any Indebtedness, except, without duplication:

- (a) the Obligations;
- (b) the Sponsor Subordinated Debt;
- (c) the Vendor Subordinated Debt;
- (d) the Borrower's obligations under all leases conveyed by it pursuant to the Edmonton Transaction;
- (e) Deeply Subordinated Debt;
- (f) Capital Lease Obligations and Obligations in respect of purchase money financing existing as of the Fifth Closing Date;
- (g) Capital Lease Obligations and Obligations in respect of purchase money financing incurred after the Fifth Closing Date; provided that the aggregate amount of the Indebtedness thereby created, incurred or assumed shall not exceed at any time outstanding \$50,000;
- (h) Indebtedness created pursuant to any Swap Agreement that has not been entered into for speculative purposes and (i) to hedge or mitigate risks to which a Loan Party has actual exposure (other than those in respect of Equity Interests) or (ii) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of a Loan Party;
- (i) Intercorporate Indebtedness;
- (j) Indebtedness with respect to surety bonds, appeal bonds or customs bonds required in the ordinary course of business or in connection with the enforcement of rights or claims

of any Loan Party, that does not exceed an aggregate amount of \$250,000 at any time; and

- (k) any Indebtedness which has been subordinated and postponed to all of the Obligations in a manner satisfactory to the Administrative Agent.

Section 7.02 Liens.

- (a) Create, incur, assume or permit to exist any Lien on any property or assets (including stock or other securities of any Person) now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except:
 - (i) Permitted Liens;
 - (ii) Liens over collateral located at Unit 400, 315-8th Avenue SW, Calgary, Alberta and Floor 4, 301-8th Avenue SW, Calgary, Alberta granted by the Borrower in favour of 4087844 Canada Inc. pursuant to the lease dated December 10, 2010 which Lien secures obligations of the Borrower in connection with such lease;
 - (iii) Liens created under the Loan Documents;
 - (iv) Liens in favour of the Administrative Agent;
 - (v) Liens securing Indebtedness permitted by Section 7.01(f), provided that any such Lien shall apply only to the personal property (and proceeds thereof) that is the subject of such Indebtedness and, if applicable, the principal amount of Indebtedness secured by any such Lien shall at no time exceed 100% of the fair market value (as determined in good faith by the applicable Loan Party) of the respective personal property at the time it was so acquired; and
 - (vi) extensions, renewals or replacements of any Lien referred to above; provided that such extension, renewal or replacement is limited to the Indebtedness and property originally secured and encumbered thereby.
- (b) Enter into any agreement prohibiting the creation or assumption of any Lien upon properties or assets, whether now owned or hereafter acquired, except (i) any such restriction that exists under this Credit Agreement, (ii) any such restriction that exists under any documents governing secured Indebtedness permitted hereunder; provided that such restrictions only relate to the assets securing such Indebtedness, (iii) restrictions by reason of customary provisions contained in leases, licenses, governmental contracts and similar agreements entered into in the ordinary course of business; provided that such restrictions are limited to the property or assets subject to such leases, licenses, contracts or agreements, and (iv) any such restriction that exists under any agreement with respect to a permitted sale or disposition of any assets; provided such restrictions are limited to the assets to be sold or disposed of.

Section 7.03 Sale/Leaseback Transactions. Enter into any Sale/Leaseback Transaction.

Section 7.04 Investments, Loans and Advances. Have outstanding or make any loan or advance to, or have or make any Investment in, any other Person or suffer to exist any such loan, advance or Investment, or any obligation to make such loan, advance or Investment,

except Permitted Investments; provided that an Obligor may acquire all of the Equity Interests in the capital of a Person, or the equipment and assets of a Business Unit (each such acquisition, a "Permitted Acquisition") if each of the following conditions is satisfied:

- (a) the Administrative Agent shall have received from Borrower an officer's certificate
 - (i) evidencing to the reasonable satisfaction of the Administrative Agent that Borrower is in compliance, on a *pro forma* basis after giving effect to such Permitted Acquisition, with the covenants contained in Section 7.13 and Section 7.14 recomputed as of the last day of the most recently ended Fiscal Quarter of Borrower (for which Borrower has delivered the financial statements and certificates required by Section 6.06(b)) as if such Permitted Acquisition had occurred on the first day of the period of four consecutive Fiscal Quarters ended on such Fiscal Quarter, (ii) confirming that no Default or Event of Default then exists (both before and after giving effect to such Permitted Acquisition), and (iii) confirming that on a *pro forma* basis after giving effect to such Permitted Acquisition, the Revolving Commitment minus the Revolving Credit Utilization shall be not less than \$1,000,000;
- (b) the aggregate Total Consideration for all Permitted Acquisitions from and after the Fourth Closing Date will not exceed \$5,000,000;
- (c) in the case of an acquisition of Equity Interests, the subsidiary is incorporated or formed under the laws of Canada or one of its provinces or territories concurrently with such acquisition, all of the issued and outstanding Equity Interests of the acquired target shall be pledged in favour of the Administrative Agent, the target shall provide in favour of the Administrative Agent a Guarantee in respect of all present and future obligations of the Borrower and a first-ranking security interest in all of its Collateral and any other security and documentation (including Landlord Agreements) required by the Administrative Agent, all in form and substance satisfactory to the Administrative Agent, acting reasonably;
- (d) if the Permitted Acquisition is an asset purchase, concurrently with the acquisition all registrations necessary or desirable in connection therewith shall have been made in order that the Administrative Agent shall hold a first-ranking security interest in such assets;
- (e) the Administrative Agent shall have received such opinions from counsel to the Borrower regarding the establishment of the additional security contemplated above, as the Administrative Agent and the Lenders may reasonably require;
- (f) the Permitted Acquisition shall not be hostile;
- (g) each Business Unit or Person acquired in a Permitted Acquisition shall have its primary operations in Canada and shall engage in businesses engaged in by the Obligors on the Closing Date;
- (h) Borrower shall provide written notice of a Permitted Acquisition to the Administrative Agent and the Lenders at least 20 days prior to the consummation of such Permitted Acquisition;
- (i) Borrower shall, if reasonably requested by the Administrative Agent or the Required Lenders, have delivered to the Administrative Agent and the Lenders environmental

reports with respect to any owned real property to be acquired in such Permitted Acquisition, reasonably satisfactory in scope and substance to the Administrative Agent and the Required Lenders;

- (j) Borrower shall have provided the Administrative Agent an updated corporate chart that gives *pro forma* effect to the consummation of such Permitted Acquisition; and
- (k) the Lenders have provided their written consent in their absolute discretion.

Section 7.05 Mergers, Consolidations, Amalgamations and Acquisitions. Merge, consolidate, form a joint venture or partnership with, or liquidate, dissolve, or wind up into or amalgamate with any other person; provided that the foregoing shall not prohibit (i) the merger, consolidation or wind up into or amalgamation of (A) Borrower with any Subsidiary (provided that Borrower or its successor by way of amalgamation shall survive, or continue after, any such merger, consolidation, wind up or amalgamation) or (B) a Subsidiary with any other Subsidiary, or (ii) the merger of a Business Unit with and into an Obligor pursuant to a Permitted Acquisition.

Section 7.06 Sales of Assets. Consummate any Asset Sale (other than an Asset Sale by reason of casualty or condemnation); provided that the foregoing shall not prohibit (a) Asset Sales the aggregate proceeds of which do not exceed \$500,000 in any Fiscal Year (the proceeds of such Asset Sales also being subject to mandatory prepayment as set out in Section 2.14(b)), (b) sales of inventory in the ordinary course of business on customary trade terms, (c) sales of Equipment which has become worn out, damaged or otherwise unsuitable for its intended purpose, or (d) the sale or lease of any assets by a Loan Party to any other Loan Party. Notwithstanding any other provision hereof to the contrary, no Loan Party shall consummate any Asset Sale after the occurrence and during the continuation of a Default or Event of Default.

Section 7.07 Restricted Payments.

- (a) Declare or make, directly or indirectly, any Restricted Payment or set aside any amount for any such purpose.
- (b) Notwithstanding the provisions of paragraph (a) above:
 - (i) so long as no Default or Event of Default has occurred or is continuing or would result therefrom, any Loan Party, other than Borrower, may pay dividends, or make other distributions, to other Loan Parties;
 - (ii) [INTENTIONALLY DELETED]
 - (iii) [INTENTIONALLY DELETED]
 - (iv) [INTENTIONALLY DELETED]
 - (v) [INTENTIONALLY DELETED]
 - (vi) [INTENTIONALLY DELETED]

Section 7.08 Transactions with Affiliates. Effect any transaction with any Related Party (other than the Loan Parties) on a basis less favourable to such Loan Party than would be the case if

such transaction had been effected with a Person not a Related Party; provided that the foregoing shall not prohibit the payment of any amounts to the extent permitted by Section 7.07.

Section 7.09 Business. Engage at any time in any business other than the businesses engaged in by the Loan Parties on the Fifth Closing Date.

Section 7.10 Limitation on Dispositions of Stock of Loan Parties. Directly or indirectly sell or otherwise dispose of, or permit any Loan Party (other than Holdco) to issue to any other Person (other than to a Loan Party), any shares of capital stock or other Equity Interests of a Loan Party.

Section 7.11 Restrictions on Ability of Subsidiaries to Pay Dividends. Directly or indirectly, voluntarily create or otherwise voluntarily cause or suffer to exist or become effective any encumbrance or restriction on the ability of such Loan Party to (a) pay dividends or make any other distributions on its capital stock or any other Equity Interest or (b) make or repay loans or advances to any other Loan Party, except for encumbrances or restrictions under this Credit Agreement and the other Loan Documents or under applicable law.

Section 7.12 Capital Expenditures. Incur or commit to incur Capital Expenditures (x) that fall outside the Master Plan during the Fiscal Years ending December 31, 2019 and December 31, 2020 , and (y) in excess of \$2,500,000 for each subsequent Fiscal Year.

Section 7.13 Minimum EBITDA. Commencing on January 1, 2019, the Borrower shall maintain each month (on a cumulative monthly basis through to December 31) EBITDA of no less than the amounts described on Schedule 7.13. The Borrower and the Lenders shall discuss in good faith any amendments to the minimum EBITDA covenant for the period subsequent to December 31, 2019, with any amendment agreed to by the Borrower and the Lenders to be reflected in an amending agreement to this Agreement.

Section 7.14 Minimum Liquidity. Maintain Liquidity at all times of no less than \$2,000,000.

Section 7.15 Fiscal Year; Accounting Changes.

- (a) Cause the Fiscal Year of any Loan Party, which is a Loan Party on the Fourth Closing Date, to end on a date other than December 31; or
- (b) Make any significant change in accounting treatment or reporting practices of any Loan Party, except as required or permitted by GAAP consistently applied.

Section 7.16 Termination or Amendments of Organizational Documents and Other Agreements.

- (a) Cause or suffer to exist any amendment, restatement, supplement or other modification to the Organizational Documents of such Loan Party without the prior written consent of the Required Lenders, unless such amendment, restatement, supplement or modification is not adverse to the interests of the Lenders hereunder or under the other Loan Documents.
- (b) (i) Terminate (without replacement), forfeit, cancel or surrender any Material Contract (or provide any waiver or consent to like effect), except a termination at its full maturity or (ii) amend, supplement or modify any Material Contract (or provide any waiver or

consent to like effect) or waive any failure of any counterparty thereto to perform its obligations thereunder, if (A) any of the foregoing would have or reasonably be expected to have a Material Adverse Effect or (B) such amendment, supplement, modification, waiver or consent relates to the assignment provisions of such agreement, except to the extent necessary to effect an assignment of any Material Contract by the counterparty thereto which, pursuant to the terms of such Material Contract does not require the consent of any Loan Party thereto.

- (c) Amend in any way the interest rate or principal amount or schedule of payments of principal and interest with respect to any Indebtedness (other than the Obligations), other than to reduce the interest rate thereon or principal amount thereof or extend the schedule of payments with respect thereto.

Section 7.17 Limitation on Creation of Subsidiaries. Establish, create, acquire or suffer to exist any Subsidiary, except that any Borrower or any Subsidiary may establish, create or acquire (pursuant to a Permitted Acquisition) one or more wholly-owned Subsidiaries and transfer assets to such newly established or created Subsidiaries so long as (i) the creation, establishment, acquisition, or existence of any such new Subsidiary is in compliance with Section 7.04 (with the transfer of any assets constituting an Investment under Section 7.04), (ii) 100% of the Equity Interests of such Subsidiary is, upon the creation, establishment or acquisition of any such new Subsidiary, pledged to the Administrative Agent for the benefit of the Beneficiaries under the applicable Pledge Agreement, and certificates representing such Equity Interests (together with executed blank stock powers) are delivered to the Administrative Agent, in each case pursuant to the terms of the applicable Pledge Agreement, and (iii) upon the creation, establishment or acquisition of any such new Subsidiary (and, in any event, prior to any transfer of assets to such Subsidiary), such Subsidiary executes the documents required to be executed by it in accordance with Section 6.11(b).

Section 7.18 Operating Leases. Enter into operating leases in which the aggregate payments required to be made pursuant to such operating leases in connection with personal property exceeds, in any Fiscal Year, \$150,000.

Section 7.19 Assigned Agreements Without the prior written consent of the Administrative Agent, (i) terminate, forfeit or cancel the Purchase Agreement or a Non-Competition Agreement, (ii) amend or modify in any material respect any such agreement where such amendment is adverse in any material respect to the interests of the Borrower or the Lenders, as determined by such Person acting reasonably, (iii) waive any failure of any party to such agreement to perform any material obligation thereunder except where such waiver is not adverse in any material respect to the interests of the Borrower or the Lenders, as determined by such Person acting reasonably, or (iv) suffer or permit anything allowing any party to terminate such agreements or any of them.

Section 7.20 New Fitness Clubs Take any of the following actions (i) enter into any agreement to lease a facility for the purpose of a new fitness club, (ii) enter into any lease in connection with a new fitness club, (iii) commencing construction of any new fitness club, (iv) enter into any agreement to create a new fitness club, and (v) enter into any agreement or make any commitment to any significant expansion of an existing fitness club, in each case without first obtaining the prior written consent of the Lenders.

**ARTICLE VIII
EVENTS OF DEFAULT**

Section 8.01 Events of Default. In case of the happening of any of the following events (each, an "Event of Default"):

- (a) any representation or warranty made or deemed made in any Loan Document, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished and such false or misleading representation or warranty shall, to the extent that the representation is capable of being cured, not have been corrected within thirty (30) days after notice thereof by the Administrative Agent;
- (b) default shall be made in the payment of any mandatory prepayment or scheduled amortization payment of any Loan, or in respect of any Commitment reduction, when and as the same shall become due and payable;
- (c) default shall be made in the payment of any principal of any Loan or LC Disbursement (other than payment of principal described in paragraph (b)) when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;
- (d) default shall be made in the payment of any interest on any Loan or amount due under any Loan Document (other than an amount referred to in paragraphs (b) and (c) above), when and as the same shall become due and payable, and such default shall continue unremedied for a period of three (3) Business Days;
- (e) default shall be made in the due observance or performance by any Loan Party of (i) any covenant, condition or agreement contained in Section 2.14(b), Section 2.14(d), Section 2.14(e), Section 6.03, Section 6.04, Section 6.05, Section 6.06, Section 6.07, Section 6.08, Section 6.09, Section 6.11, Section 6.12, Section 6.13, Section 6.15, Section 6.17 or Section 6.21, and such default shall continue unremedied for a period of five (5) Business Days, or (ii) any covenant, condition or agreement contained in Section 6.02 or Article VII;
- (f) default shall be made in the due observance or performance by any Loan Party of any covenant, condition or agreement contained in any Loan Document (other than those defaults specified in paragraph (b), (c), (d) or (e) above) and such default shall continue unremedied for a period of thirty (30) days;
- (g) any Loan Party shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness (excluding the Obligations) in a principal amount in excess of \$500,000, when and as the same shall become due and payable (after giving effect to any applicable grace period), or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness (after giving effect to any applicable grace period), if the effect of any failure referred to in this clause (ii) is to cause, or to permit the holder or holders of such Indebtedness in a principal amount in excess of \$500,000 or a trustee on its or their behalf to cause, such Indebtedness to become due prior to its stated maturity (whether or not it is so declared), unless such failure has been cured or waived

in accordance with the agreement or instrument evidencing or governing such Indebtedness and, if applicable, the acceleration of such Indebtedness has been rescinded;

- (h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of any Loan Party, or of a substantial part of the property or assets of any such Person, under any Insolvency Law, (ii) the appointment of a receiver, interim receiver, receiver and manager, trustee, custodian, sequestrator, conservator or similar official for any such Person or for a substantial part of the property or assets of any such Person or (iii) the winding up or liquidation of any such Person; and such proceeding or petition shall continue undismissed for 15 days or an order or decree approving or ordering any of the foregoing shall be entered;
- (i) any Loan Party shall (i) voluntarily commence any proceeding or file any petition seeking relief under any Insolvency Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in paragraph (h) above, (iii) apply for or consent to the appointment of a receiver, interim receiver, receiver and manager, trustee, custodian, sequestrator, conservator or similar official for any such Person or for a substantial part of the property or assets of any such Person, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due or (vii) take any action for the purpose of effecting any of the foregoing;
- (j) one or more judgments for the payment of money, individually or in the aggregate, in an amount in excess of \$500,000, shall be rendered against any Loan Party or any combination of Loan Parties and the same shall remain undischarged for a period of 30 days during which execution shall not be effectively stayed, vacated, discharged or satisfied;
- (k) a Pension Plan Event shall have occurred that, when taken together with all other Pension Plan Events that have occurred, could reasonably be expected to result in liability of the Loan Parties in an aggregate amount exceeding \$500,000;
- (l) there shall have occurred a Change of Control;
- (m) any Lien purported to be created by any Security Document shall cease to be, or shall be asserted by the Loan Party granting same not to be, a valid, perfected first priority Lien on any Collateral (except as otherwise expressly provided in this Credit Agreement or such Security Document);
- (n) the subordination provisions of a Vendor Subordination Agreement, the Sponsor Subordination Agreement or any agreement or instrument evidencing or governing any of the Vendor Subordinated Debt, the Sponsor Subordinated Debt or any Deeply Subordinated Debt shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Person party thereto shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations, for any reason shall not have the priority contemplated by this Credit Agreement or such subordination provisions;

- (o) any Loan Document shall not be for any reason, or shall be asserted by any Loan Party (except as otherwise expressly provided in this Credit Agreement or such Loan Document) not to be, in full force and effect and enforceable in all material respects in accordance with its terms (except as otherwise expressly provided in this Credit Agreement or such Loan Document);
- (p) any Guarantor seeks, or gives notice to the Administrative Agent of its intention, to terminate or limit its liability under its Guarantee with respect to present or future Obligations of Borrower;
- (q) any Loan Party shall default in the payment when due or in the performance or observance of any material obligation or condition of any agreement, contract or lease (other than the Security Documents or any such agreement, contract or lease relating to Indebtedness), if the exercise of remedies thereunder by the other party to such agreement would reasonably be expected to have a Material Adverse Effect;
- (r) warrants or writs of attachment or execution or similar process which exceed \$500,000 in aggregate value shall be issued against any property of a Loan Party and such warrant or process shall continue undischarged or unstayed for 30 days;
- (s) if creditors of any Loan Party having a Lien against or in respect of the property and assets thereof, or any part thereof, realize upon or enforce any such security against such property and assets or any part thereof having an aggregate fair market value in excess of \$500,000 and such realization or enforcement shall continue undischarged or unstayed within the lesser of 30 days and the period of time prescribed under applicable laws for the completion of the sale of or realization against the assets subject to such seizure or attachment; or
- (t) there occurs any act, omission, event, undertaking or circumstance or series of acts, omissions, events, undertakings or circumstances which have or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

then, and in every such event (other than an event with respect to any Loan Party described in paragraph (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent may and, at the request of the Required Lenders, shall, by notice to Borrower, take any of or all the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable, in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued fees and all other liabilities of the Loan Parties accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by each Loan Party, anything contained herein or in any other Loan Document to the contrary notwithstanding, and (iii) exercise any remedies available under any Loan Document or otherwise; and in any event with respect to any Loan Party described in paragraph (h) or (i) above, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued fees and all other liabilities of the Loan Parties accrued hereunder and under any other Loan Document to which they are a party, shall automatically become due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by each Loan Party, anything contained herein or in any other Loan Document to which they are a party to the contrary notwithstanding.

Section 8.02 Pro Rata Sharing.

- (a) Amounts Received. All amounts received by the Administrative Agent following an Event of Default or Default to which the Lenders are entitled will be shared *pro rata* among the Lenders in the same proportion as the Loans extended by each Lender bears to the total of all outstanding Obligations until fully paid.
- (b) Allocation. Following an Event of Default or Default, the Administrative Agent shall allocate outstanding Loans (including without limitation Swingline Loans) among the Lenders so the proportion that the Loans by each such Lender bears to the total Obligations is the same as the proportion that the Commitment of each such Lender bears to the total Commitments of all of the Lenders. In order to implement the foregoing if required, any Lender from which excess Loans are outstanding (the "Surplus Lender") shall sell to any Lender from which deficit Loans are outstanding (the "Deficit Lender") and the Deficit Lender shall purchase from the Surplus Lender, for cash, at par, without representation or warranty from or recourse to the Surplus Lender, an interest in such Loans outstanding from the Surplus Lender as results in the ratio of Loans outstanding from both Lenders under their Commitments being equal to the ratio of their Commitments. The intention of this Section 8.02(b) is that when any and all purchases and sales required hereby have been completed, the outstanding Loans under the Commitments will be outstanding rateably from the Lenders in the proportion that their respective Commitments bear to the total Commitments. If necessary to implement the foregoing, the Lenders shall take participations in outstanding Letters of Credit. Borrower expressly consents to the foregoing arrangements among the Lenders.

Section 8.03 Equity Cure. In the event of any Event of Default of the financial covenants set forth in Section 7.13 or Section 7.14 (the "Designated Financial Covenants"), any equity or Deeply Subordinated Debt contribution from the shareholders of the Borrower within fifteen (15) Business Days of the Borrower being required to deliver the financial statements as provided for in Section 6.06(a), Section 6.06(b) or Section 6.06(c) will, at the request of the Borrower, be included in the calculation of EBITDA solely for the purposes of determining compliance with such financial covenants at the end of the applicable period and any subsequent period that includes such period (any such equity contribution, a "Specified Equity Contribution"); provided that (a) the amount of any Specified Equity Contribution and the use of proceeds therefrom will be no greater than the amount required to cause the Borrower to be in compliance with the applicable financial covenants, (b) all Specified Equity Contributions and the use of proceeds therefrom will be disregarded for all other purposes under the Loan Documents (including, to the extent applicable, calculating EBITDA for purposes of determining basket levels, pricing and other items governed by reference to EBITDA or that include EBITDA in the determination thereof in any respect), (c) there shall be (x) no more than one Specified Equity Contribution made during the term of this Agreement, (y) the amount of the Specified Equity Contributions shall not exceed \$250,000, and (z) the proceeds of the Specified Equity Contribution is actually received by the Borrower and the Borrower has immediately upon receipt of the proceeds of the Specified Equity Contribution delivered to the Administrative Agent 100% of the proceeds of the Specified Equity Contribution for application to the outstanding Loans (a "Repayment") in such order of application as the Required Lenders shall elect and shall identify to the Borrower, (d) the Repayment shall be ignored for purposes of determining the amount of Indebtedness of the Borrower and calculating the financial covenants set forth in Section 7.13 and Section 7.14 until such time that the Specified Equity Contribution ceases to be calculated as EBITDA pursuant to the provisions of this Section 8.03. The Borrower shall provide notice to the Administrative Agent of its intention to cause to be made a Specified Equity Contribution prior to

the date the financial statements are required to be delivered pursuant to Section 6.06. If, after giving effect to the recalculations set forth in this Section 8.03, the Borrower shall then be in compliance with the Designated Financial Covenants, the Borrower shall be deemed to have satisfied the requirements of the Designated Financial Covenants and the applicable breach or default of the Designated Financial Covenants that had occurred shall be deemed cured for the purposes of this Agreement. Nothing contained herein shall be interpreted to restrict the Administrative Agent and the Lenders from accelerating the Obligations following the occurrence and during the continuance of an Event of Default as a result of the occurrence of any Event of Default other than in respect of the Designated Financial Covenants that are addressed as a consequence of the Specified Equity Contribution being made.

Section 8.04 Application of Payments. Notwithstanding any other provision of this Agreement, the proceeds of realization of the Security Documents or any portion thereof and payment of the Obligations on the Maturity Date shall be distributed in the following order:

- (a) first, in payment of all costs and expenses incurred by the Administrative Agent in connection with such realization, including legal, accounting and receivers' fees and disbursements;
- (b) second, in payment of all costs and expenses incurred by the Lenders in connection with such realization, including legal, accounting and receivers' fees and disbursements;
- (c) third, against the principal and interest to each Lender pursuant to the 2019 Loans owing to 2019 Lenders (other than CIBC) in accordance with its proportionate share;
- (d) fourth, against the principal and interest to CIBC pursuant to the 2019 Loans owing to CIBC;
- (e) fifth, against all other Obligations owing to the Lenders (excluding Obligations pursuant to the Subordinate Loans) that were not paid in Sections (c) and (d) above to each Lender based on the amount owing to such Lender divided by the aggregate amount owing to all Lenders;
- (f) sixth, against all other Obligations owing to the Subordinate Lenders that were not paid in Sections (c), (d) and (e) above to each Subordinate Lender based on the amount owing to such Subordinate Lender divided by the aggregate amount owing to all Subordinate Lenders; and
- (g) seventh, if all Obligations of the Borrower listed above have been paid and satisfied in full, any surplus proceeds of realization shall be paid to the Borrower unless otherwise required in accordance with applicable law.

ARTICLE IX ADMINISTRATIVE AGENT

Section 9.01 Appointment of Administrative Agent. Each of the Lenders and the Fronting Agent hereby irrevocably designate and appoint CIBC as the agent of such Lender and Fronting Agent under this Credit Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, as the agent for such Lender and Fronting Agent, to take such action on its behalf under the provisions of this Credit Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly

delegated to Administrative Agent by the terms of this Credit Agreement and such other Loan Documents, including to make determinations as to the eligibility of Accounts, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Credit Agreement or such other Loan Documents, Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein and therein, or any fiduciary relationship with any Lender or Fronting Agent, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Credit Agreement or the other Loan Documents or otherwise exist against the Administrative Agent.

Section 9.02 Delegation of Duties. The Administrative Agent may execute any of its duties under this Credit Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

Section 9.03 Exculpatory Provisions. Neither the Administrative Agent nor any of its respective trustees, officers, directors, employees, agents, attorneys-in-fact or Affiliates shall (a) be liable to any Lender (or any Lender's participants) or Fronting Agent for any action lawfully taken or omitted to be taken by them or such Person under or in connection with this Credit Agreement or the other Loan Documents (except for its or such Person's own gross negligence or wilful misconduct as determined by a final non-appealable decision of a court of competent jurisdiction), (b) be responsible in any manner to any Lender (or any Lender's participants) or Fronting Agent for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Credit Agreement or the other Loan Documents or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Credit Agreement or the other Loan Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Credit Agreement or the other Loan Documents or for any failure of the Loan Parties to perform their obligations hereunder or thereunder, or (c) have any obligation whatsoever to any of the Lenders to assure that the Collateral exists or is owned by the Loan Parties or is cared for, protected or insured or has been encumbered, or that the Administrative Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Administrative Agent pursuant to any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Administrative Agent may act in any manner it may deem appropriate, in its sole discretion, given the Administrative Agent's own interest in the Collateral in its capacity as one of the Lenders and that the Administrative Agent shall have no other duty or liability whatsoever to any Lender as to any of the foregoing. The Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Credit Agreement, or to inspect the properties, books or records of any of the Loan Parties.

Section 9.04 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Loan Parties), independent accountants and other

experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any note as the owner thereof for all purposes unless such note shall have been transferred in accordance with Section 11.04. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Credit Agreement and the other Loan Documents unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Credit Agreement in accordance with a request of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

Section 9.05 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received notice from a Lender or Borrower referring to this Credit Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall promptly give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) continue making Revolving Loans to Borrower on behalf of the Lenders in reliance on the provisions of Section 2.02 and take such other action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Section 9.06 Non-Reliance on Agent and Other Lenders. Each Lender and the Fronting Agent expressly acknowledges that neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent hereinafter taken, including any review of the affairs of Loan Parties, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender and Fronting Agent represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and made its own decision to make its Loans hereunder and enter into this Credit Agreement. Each Lender and the Fronting Agent also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender or the Fronting Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Credit Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder or by the other Loan Documents, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, financial and other condition or creditworthiness of the Loan Parties which may come into the possession of the Administrative Agent, or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

Section 9.07 Indemnification. The Lenders and the Fronting Agent agree to indemnify the Administrative Agent in its capacity as such (to the extent not reimbursed by Borrower and without limiting the obligation of Borrower to do so), in proportion to each Lender's pro rata share (based on its Commitments hereunder (provided that (i) in the case of Term Loans or (ii) in the event that such Commitments shall have expired or been terminated, such *pro rata* share shall be based on the respective principal amounts of the outstanding Loans)), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time be imposed on, incurred by or asserted against the Administrative Agent in any way relating to or arising out of this Credit Agreement or the other Loan Documents, or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Administrative Agent under or in connection with any of the foregoing; provided that no Lender nor the Fronting Agent shall be liable to the Administrative Agent hereunder for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting solely from the Administrative Agent's gross negligence or wilful misconduct (as determined by a final non-appealable decision of a court of competent jurisdiction) or resulting solely from transactions or occurrences that occur at a time after such Lender has assigned all of its interests, rights and obligations under this Credit Agreement pursuant to Section 11.04 or, in the case of a Lender to which an assignment is made hereunder pursuant to Section 11.04, at a time before such assignment. The agreements in this subsection shall survive the payment of the Obligations and all other amounts payable hereunder and the termination of this Credit Agreement.

Section 9.08 Administrative Agent in Its Individual Capacity. The Administrative Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Loan Parties as if the Administrative Agent were not the Administrative Agent hereunder. With respect to its Commitments, the Loans made or renewed by it and any promissory note issued to it and any Letter of Credit, the Administrative Agent shall have and may exercise the same rights and powers under this Credit Agreement and the other Loan Documents and is subject to the same obligations and liabilities as and to the extent set forth herein and in the other Loan Documents for any other Lender or the Fronting Agent. The terms "Lenders" or "Required Lenders" or any other term shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender or one of the Required Lenders.

Section 9.09 Successor Administrative Agent. Subject to the appointment and acceptance of a successor Administrative Agent as provided below, the Administrative Agent may resign at any time by notifying Lenders, the Fronting Agent and Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a Lender as the successor, which successor agent shall, unless a Default or Event of Default shall have occurred and be continuing, be subject to approval by Borrower (not to be unreasonably withheld or delayed); provided that any successor Administrative Agent shall not be a non-resident of Canada or shall be deemed to be resident in Canada for the purposes of Part XIII of the ITA. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Fronting Agent, appoint a successor Administrative Agent, which shall not be a non-resident of Canada or shall be deemed to be resident in Canada for the purposes of Part XIII of the ITA. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall be discharged from its duties

and obligations hereunder. After the Administrative Agent's resignation hereunder, the provisions of this Article IX and Section 11.05 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent.

Section 9.10 Notices from Administrative Agent to Lenders and the Fronting Agent. The Administrative Agent shall promptly, upon the written request from any Lender or the Fronting Agent, forward to such Lender or the Fronting Agent, as applicable, copies of any written notices, reports or other information supplied to it by Borrower (but which Borrower is not required to supply directly to the Lenders or the Fronting Agent). All notices and other communications to the Lenders and the Fronting Agent hereunder may be delivered or furnished in accordance with Section 11.01, or by electronic communication (including email and internet or intranet websites) pursuant to procedures approved by the Administrative Agent.

Section 9.11 Field Examination Reports; Disclaimer by Lenders. Each Lender: (a) is deemed to have requested that the Administrative Agent furnish such Lender, promptly after it becomes available, a copy of each field examination report (each a "Report" and collectively, "Reports") prepared by the Administrative Agent or its agents; (b) expressly agrees and acknowledges that the Administrative Agent makes no representation or warranty as to the accuracy of any Report and shall not be liable for any information contained in any Report; (c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Administrative Agent or other party performing any audit or examination will inspect only specific information regarding Borrower and will rely significantly upon Borrower's books and records, as well as on representations of Borrower's personnel; (d) agrees to keep all Reports confidential in accordance with its standard operating procedures and strictly for its internal use, and not to distribute (except to its Affiliates, directors, officers, employees, attorneys, agents, participants, assignees or its prospective participants or assignees) or use any Report in any other manner (except to the extent that disclosure or distribution is made pursuant to law, rule, regulation or legal or other process); and (e) without limiting the generality of any other indemnification provision contained in this Credit Agreement, agrees (i) to hold the Administrative Agent harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Loans or other credit accommodations that the indemnifying Lender has made or may make to Borrower, or the indemnifying Lender's participation in Letters of Credit and (ii) to pay and protect, and indemnify, defend and hold the Administrative Agent harmless from and against, the claims, actions, proceedings, damages, costs, expenses and other amounts (including reasonable attorneys' fees) incurred by the Administrative Agent as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

ARTICLE X SECURITY

Section 10.01 Form of Security

- (a) Security Delivered on the Closing Date Prior to the World Health Acquisition On the Closing Date, as continuing collateral security for the payment and satisfaction of all Obligations of the Borrower to the Administrative Agent and the Lenders, the Borrower delivered or caused to be delivered to the Administrative Agent for itself and on behalf of the Lenders the following Security Documents:
- (i) the Borrower Security Agreement;

- (ii) the Borrower Pledge Agreement;
 - (iii) an assignment of the Purchase Agreement from the Borrower in favour of the Administrative Agent;
 - (iv) a Guarantee Agreement from Holdco and Holdco GP in favour of the Administrative Agent in which it guarantees the Obligations of the Borrower;
 - (v) a Guarantor Security Agreement from Holdco and Holdco GP; and
 - (vi) the Holdco Pledge Agreement.
- (b) Security Delivered upon Completion of World Health Acquisition On the same day promptly following the World Health Acquisition, as general and continuing security for the payment and performance of the Obligations, the Borrower caused the Target to deliver to the Administrative Agent the security described below as security for the Obligations:
- (i) a Guarantee Agreement from the Target and each of its Subsidiaries (other than Spa Lady (West) Inc.);
 - (ii) a Guarantor Security Agreement from the Target and each of its Subsidiaries (but not, for certainty, from Spa Lady (West) Inc.);
 - (iii) an assignment of the Non-Competition Agreements from Holdco and IFHI in favour of the Administrative Agent;
 - (iv) a Leasehold Mortgage as required by the Administrative Agent; and
 - (v) a Landlord Agreement for each leased property as required by the Administrative Agent.
- (c) Security Delivered on Amalgamation Immediately following the Amalgamation (and for greater certainty, on the same day as the Amalgamation), the Borrower executed and delivered or caused to be executed and delivered to the Administrative Agent the following Security Documents to the Administrative Agent for itself and on behalf of the Lenders as continuing collateral security for payment and satisfaction of all Obligations of the Borrower to the Lenders:
- (i) a Borrower Security Agreement from Amalco;
 - (ii) a Borrower Pledge Agreement from Amalco;
 - (iii) an assignment of all policies of insurance from Amalco with respect to all Collateral and all proceeds thereunder that is subject to the foregoing security;
 - (iv) a confirmation and acknowledgement from Amalco, *inter alia*, to the continuing effect of the Security granted by each of its predecessors, prior to the Amalgamation and the indebtedness owing by it under this Agreement;
 - (v) a confirmation and acknowledgement from each Person that has provided a Guarantee Agreement in favour of the Administrative Agent in which such

Persons confirm, *inter alia*, the continuing effect of its Guarantee Agreement and the Security Documents executed by it following the Amalgamation; and

- (vi) such other security as may be reasonably required by the Administrative Agent to give effect to the Companies' agreement otherwise hereunder respect to the Collateral.

Section 10.02 Security Delivered Prior to Asset Transfer by Amalco to Operating LP

Immediately prior to the transfer of assets by Amalco to Operating LP, the Borrower shall cause to be executed and delivered the following security to the Administrative Agent for itself and on behalf of the Lenders as continuing collateral security for payment and satisfaction of all Obligations of the Borrower to the Lenders:

- (a) a Guarantee Agreement from the Operating LP;
- (b) a Guarantor Security Agreement from the Operating LP; and
- (c) a Leasehold Mortgage from the Operating LP.

Section 10.03 Registration; Certain Notices.

- (a) Each Loan Party shall, at Borrower's expense, register, file or record in appropriate form the Security Documents in the offices specified on Schedule 4.15, which are the offices where such registration, filing or recording is necessary or of advantage to the creation, perfection and preserving of the security applicable to it. Each Loan Party shall amend and renew such registrations, filings and recordings from time to time as and when required to keep them in full force and effect or to preserve the priority established by any prior registration, filing or recording thereof.
- (b) Borrower shall give at least 15 days' prior written notice to the Administrative Agent of each of the following:
 - (i) any change of name of any Loan Party; and
 - (ii) any change of any Loan Party's chief executive office or the location of the office where it keeps its records respecting its receivables.

Section 10.04 Continuing Security. Each item or part of the Security Documents and the Liens created thereby shall for all purposes be treated as a separate and continuing collateral security and shall be deemed to have been given in addition to and not in place of any other item or part of the Security Documents, the Liens created thereby, or any other security now held or hereafter acquired by the Administrative Agent or the Lenders. No item or part of the Security Documents or the Liens created thereby shall be merged or be deemed to have been merged in or by this Credit Agreement or any documents, instruments or acknowledgements delivered hereunder, or any simple contract debt or any judgment, and any realization of or steps taken under or pursuant to any security, instrument or agreement shall be independent of and not create a merger with any other right available to the Lenders or the Administrative Agent under any security, instruments or agreements held by it or at law or in equity.

Section 10.05 Dealing with Security. The Administrative Agent, with the consent of all of the Lenders, may grant extensions of time or other indulgences, take and give up securities

(including the Security Documents or the Liens created thereby or any part or parts thereof), accept compositions, grant releases and discharges and otherwise deal with any Loan Party and other parties and with security (including without limitation, the Security and each part thereof) as the Administrative Agent may see fit, without prejudice to or in any way limiting the liability of any Loan Party under this Agreement or of any Loan Party under the other Loan Documents or under any of the Security Document or any other collateral security to which it is party.

Section 10.06 Effectiveness. The Security Documents, the Liens created thereby, and the security created by any other Loan Document constituted or required to be created shall be effective, and the undertakings as to the Security Documents and the Liens created thereby herein or in any other Loan Document shall be continuing, whether any Loans are then outstanding or any amounts thereby secured or any part thereof shall be owing before or after, or at the same time as, the creation of such Liens or before or after or upon the date of execution of any amendments to this Credit Agreement.

Section 10.07 Release of Liens and Guarantors.

- (a) Subject to Section 10.07(c), no Loan Party shall be discharged from any Security Document, Lien created thereby, or any part thereof except by a written release and discharge signed by the Administrative Agent with the prior written consent of the Lenders. To the extent that such Security Document applies to Asset Sales permitted to be consummated by Section 7.06, the Administrative Agent shall provide a release or no interest letter, in respect of the property and assets subject to such Asset Sale, promptly upon the request of Borrower. The Lenders hereby authorize the Administrative Agent to sign all such releases, no interest letters, or other documents or interests releasing the Liens as they apply to such Asset Sales permitted to be consummated by Section 7.06.
- (b) Upon any Asset Sale permitted to be consummated by Section 7.06, or consummation of any transaction permitted hereunder as a result of which any Guarantor ceases to be a Subsidiary of Borrower, the Administrative Agent is authorized to release such Liens that relate solely to the Collateral sold or otherwise disposed and the Guarantee made by such Guarantor under the Loan Documents.
- (c) Upon payment in full in cash of the Loans and all the other Obligations (other than unasserted contingent and indemnification obligations), termination of all Commitments (including commitment of the Fronting Agent to issue Letters of Credit) and reduction of the LC Exposure to zero (or the making of other arrangements satisfactory to the Administrative Agent and the Fronting Agent), the Administrative Agent is authorized to release all of the Liens created, and all the Guarantees made, under the Loan Documents.

Notwithstanding the foregoing, (i) the Administrative Agent shall not be required to execute, or cause any Person to execute, any such document on terms which, in its opinion, would expose it to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Liens upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties.

**ARTICLE XI
MISCELLANEOUS**

Section 11.01 Notices. Except as otherwise expressly permitted herein, notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, e-mail, mailed or sent by fax, as follows:

- (a) if to Borrower, to it at International Fitness Holdings Inc., 7222 Edgemont Blvd NW, Calgary AB T3A 2X7, Attention: Mike Sendyk (FAX: 1-866-921-0293) (Email: msendyk@ifhinc.ca), with a copy to TriWest Capital Partners, Suite 4600, 400-3rd Avenue SW, Calgary, Alberta T2P 4H2, Attention: Ryan Giles (Fax: 403 225-3547) (E-mail: rgiles@triwest.ca);
- (b) if to CIBC, as a Lender or the Administrative Agent, to it at CIBC, Credit Processing Services – 595 Bay Street, 5th Floor, Toronto, Ontario, M5G 2C2, Attention: Naresh Kumar Lohana, Senior Credit Risk Analyst (Fax: 416-980-8131), with a copy to CIBC, 25 King Street West, 16th Floor, Toronto, ON M5L 2A1, Attention: Supriya Sarin, Senior Director (Fax: 416-214-8749);
- (c) if to CIBC, as Fronting Agent, to it at CIBC, Credit Processing Services – 595 Bay Street, 5th Floor, Toronto, Ontario, M5G 2C2, Attention: Naresh Kumar Lohana, Senior Credit Risk Analyst (Fax: 416-980-8131), with a copy to CIBC, 25 King Street West, 16th Floor, Toronto, ON M5L 2A1, Attention: Supriya Sarin, Senior Director (Fax: 416-214-8749); and
- (d) if to any other Lender, at its address, e-mail address (or fax number) set forth in its Administrative Questionnaire.

Any party hereto may change its address, e-mail address or fax number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Credit Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by fax, or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 11.01. The Administrative Agent shall deliver to Borrower a copy of each Administrative Questionnaire received by it.

Section 11.02 Survival of Agreement. All covenants, agreements, representations and warranties made by Loan Parties herein and by the Loan Parties in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Credit Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders, the Fronting Agent and the Administrative Agent, and shall survive the making by the Lenders of the Loans and the issuance of Letters of Credit by the Fronting Agent, regardless of any investigation made by, or on behalf of, the Lenders or the Fronting Agent, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Credit Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not been terminated. The provisions of Section 2.15, Section 2.16, Section 2.20 Article IX, and Section 11.05 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the

expiration or termination of the Letters of Credit and the Commitments or the termination of this Credit Agreement or any provision hereof.

Section 11.03 Counterparts; Binding Effect. This Credit Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Credit Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the Loan Parties, the Fronting Agent and the Lenders and their respective successors and assigns, except that none of the Loan Parties shall have the right to assign its rights or duties hereunder or any interest herein without the prior consent of all the Lenders, and any attempted assignment by any such Person shall be null and void (it being understood that a merger of a Loan Party with and into any other Person in which the other Person is the surviving entity shall not be considered an assignment of such Loan Party's duties hereunder and would instead be subject to the restrictions of Section 7.05).

Section 11.04 Successors and Assigns.

- (a) Subject to Section 11.03, whenever in this Credit Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party, and all covenants, promises and agreements by or on behalf of the Loan Parties, the Lenders, or the Fronting Agent that are contained in this Credit Agreement shall bind and inure to the benefit of their respective permitted successors and assigns.
- (b) Each Lender may assign to one or more assignees (each of which must be a resident of Canada or deemed to be a resident of Canada for purposes of the ITA and which must not (provided that there exists no Default or Event of Default as no such restriction shall apply in such circumstances) be a Person who operates a business of the same nature of the Business in the Province of Alberta) (treating any Approved Funds that are administered or managed by the same Person or an Affiliate of such Person as a single assignee) all or a portion of its interests, rights or obligations under this Credit Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) and the other Loan Documents; provided that except in the case of an assignment to a Lender, an Affiliate of the assigning Lender, or an Approved Fund (unless the Lender, Affiliate or Approved Fund is not then a Revolving Lender, a Term Lender, a Capex Lender or a Subordinate Lender, as applicable), each of the Administrative Agent and Borrower, at any time after the earlier of (A) the date upon which the Administrative Agent reasonably determines that the primary syndication of the Term Loans has been completed (it being understood that the Administrative Agent will promptly notify Borrower of the occurrence of such date) and (B) 60 days after the Closing Date, must give its prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed, it being understood that such consent shall be deemed to have been reasonably withheld if such assignment would subject Borrower to additional costs or liabilities under Section 2.15, Section 2.16, Section 2.20 or Section 11.05); provided further that if a Default or Event of Default has occurred and is continuing, the consent of Borrower shall not be required. Except in the case of an assignment to a Lender, an Affiliate of the assigning Lender or an Approved Fund, or in the case of an assignment of an amount equal to the remaining balance of such Lender's Commitments and Loans of the relevant Class, the amount of the

Commitments and Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 (in the case of an assignment of Revolving Loans, Revolving Commitments or Term Loans), unless each of Borrower and the Administrative Agent otherwise consents. The parties to each such assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, and a processing and recordation fee of \$3,500; provided that, notwithstanding the foregoing, the sale or assignment by any assignor (which acquired an interest in the Commitments and Loans of any Class in an amount less than \$2,500,000 as a result an exception in the immediately preceding sentence) to any Person that is not a Lender or an Affiliate of such assignor or an Approved Fund shall be subject to the minimum assignment requirement set forth in the immediately preceding sentence if all the Affiliates of such Lender hold Commitments and Loans of the relevant Class in the amount of \$1,000,000 or more in the aggregate. Upon acceptance and recording pursuant to paragraph (d) below, from and after the effective date specified in each Assignment and Acceptance, (i) the assignee thereunder shall be a party hereto and (ii) the assigning Lender thereunder shall, to the extent of the interest so assigned, be released from its obligations under this Credit Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Credit Agreement, such Lender shall cease to be a party hereto, but shall continue to be entitled to the benefits of Section 2.15, Section 2.16, Section 2.20 and Section 11.05, as well as to any fees accrued for its account and not yet paid).

- (c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby, free and clear of any adverse claim; (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Credit Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Obligors or the performance or observance by the Loan Parties of any of their obligations under this Credit Agreement or under any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee represents and warrants that it is legally authorized to enter into such Assignment and Acceptance; (iv) such assignee confirms that it has received a copy of this Credit Agreement, together with copies of any amendments or consents entered into prior to the date of such Assignment and Acceptance and copies of the most recent financial statements delivered pursuant to Section 6.06 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (v) such assignee will independently and without reliance upon such assigning Lender, the Fronting Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Credit Agreement; (vi) such assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof and of the other Loan Documents, together with such powers as are reasonably incidental thereto; and (vii) such assignee agrees that it will perform in

accordance with their terms all the obligations that by the terms of this Credit Agreement are required to be performed by it as a Lender.

- (d) The Administrative Agent, acting for this purpose as agent of Borrower, shall maintain at one of its offices in Toronto a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive in the absence of manifest error and Borrower, the Fronting Agent, and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Credit Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower, the Fronting Agent and any Lender at any reasonable time and from time to time upon reasonable prior notice.
- (e) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, together with an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) above and the written consent to such assignment of any Person whose consent is required pursuant to paragraph (b) above, the Administrative Agent shall (i) accept such Assignment and Acceptance and (ii) record the information contained therein in the Register. No assignment shall be effective unless it has been recorded in the Register as provided in this paragraph (e).
- (f) Each Lender may, without the consent of Borrower, the Administrative Agent, or the Fronting Agent, sell participations to one or more banks or other entities in all or a portion of its rights and obligations under this Credit Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating banks or other entities shall be entitled to the benefit of the cost protection provisions contained in Section 2.15, Section 2.16, Section 2.20 and Section 11.05 to the same extent as if they were Lenders hereunder; provided that Borrower shall not be required to reimburse the participating banks or other entities pursuant to Section 2.15, Section 2.16, Section 2.20 or Section 11.05 in an amount in excess of the amount that would have been payable thereunder to such Lender had such Lender not sold such participation, and (iv) Borrower, the Administrative Agent, the Fronting Agent, and the other Lenders shall continue to deal solely and directly with such Lender in connection with the Lender's rights and obligations under this Credit Agreement, and such Lender shall retain the sole right to enforce the obligations of the Loan Parties under the Loan Documents and to approve any amendment, modification or waiver of any provision of this Credit Agreement (provided that the participating bank or other entity may be provided with the right to approve amendments, modifications or waivers affecting it that (v) decrease any fees payable hereunder, (w) decrease the amount of principal of, or the rate at which interest is payable on, the Loans, (x) extend any scheduled principal payment date or date for the scheduled payment of interest on the Loans, (y) increase the amount of or extend the termination date of the Commitments or (z) release a Guarantor from its guarantee under the Guarantee Agreement (except as expressly contemplated by any Loan Document) or all or substantially all of the

Collateral from the Liens created under the Security Documents (except as expressly contemplated by any Loan Document)).

- (g) Notwithstanding the limitations set forth in paragraph (b) above, (i) any Lender may at any time assign all or any portion of its rights under this Credit Agreement to a Federal Reserve Bank, the Bank of Canada or any similar financial institution without the prior written consent of Borrower (unless such assignment would subject Borrower to additional costs or liabilities under Section 2.15, Section 2.16, Section 2.20 or Section 11.05), the Administrative Agent, or the Fronting Agent, (ii) any Lender which is a fund may pledge all or any portion of its rights under this Credit Agreement to its trustee or other creditor in support of its obligations to its trustee or other creditor without the prior written consent of Borrower, the Administrative Agent, or the Fronting Agent and (iii) any Lender may at any time assign or pledge all or any portion of its rights under this Credit Agreement to direct or indirect contractual counterparties in Swap Agreements related to the Loans; provided that no such assignment pursuant to clause (i), (ii) or (iii) shall release any Lender from any of its obligations hereunder or substitute any such Bank or trustee for such Lender as a party hereto.
- (h) Except as provided in Article III, the Fronting Agent may not assign or delegate any of its respective rights and duties hereunder without the prior written consent of Borrower and the Administrative Agent.
- (i) Notwithstanding anything contained herein to the contrary, a 2019 Lender (other than CIBC) may not assign all or a portion of its interests, rights or obligations under this Credit Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) and the other Loan Documents without the prior written consent of CIBC.

Section 11.05 Expenses; Indemnity.

- (a) Borrower agrees to pay all reasonable out-of-pocket expenses incurred by the Administrative Agent and the Fronting Agent in connection with the preparation, execution and delivery of this Credit Agreement and the other Loan Documents (including all costs relating to due diligence) or in connection with any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions hereby or thereby contemplated shall be consummated) or incurred by the Administrative Agent, the Fronting Agent, or any Lender in connection with the enforcement or protection of their rights in connection with this Credit Agreement and the other Loan Documents or in connection with the Loans made or the Letters of Credit issued hereunder, including the reasonable fees, disbursements and other charges of Lenders' Counsel, and, in connection with any such enforcement or protection, the reasonable fees, disbursements and other charges of any other counsel for Administrative Agent, the Fronting Agent, or any Lender. Borrower further agrees to indemnify the Administrative Agent, the Fronting Agent, and the Lenders from, and hold them harmless against, any documentary taxes, assessments or similar charges made by any Governmental Authority by reason of the execution and delivery of this Credit Agreement or any of the other Loan Documents.
- (b) Borrower agrees to indemnify the Administrative Agent, the Fronting Agent and each Lender and any receiver, receiver manager or similar person appointed under applicable law, and their respective shareholders, Affiliates, officers, directors, employees, trustees,

advisors, and agents (each such person being called an "Indemnitee") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, disbursements and other charges, incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Credit Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the Transactions and the other transactions contemplated hereby or thereby, (ii) the use of the Letters of Credit or the proceeds of the Loans, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto or (iv) any actual or alleged presence or release of Hazardous Substance on or from any property currently or formerly owned or operated by the Loan Parties or any of their respective predecessors or any liability under any Environmental Law related in any way to the Loan Parties; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses have resulted from the gross negligence or wilful misconduct of any Indemnitee as determined by a final non-appealable decision of a court of competent jurisdiction.

- (c) The provisions of this Section 11.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Credit Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the invalidity or unenforceability of any term or provision of this Credit Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, the Fronting Agent or any Lender. All amounts due under this Section 11.05 shall be payable promptly after written demand therefor.

Section 11.06 Right of Setoff. Each Lender is hereby authorized, in addition to any other right or remedy that any Lender may have by operation of law or otherwise, at any time and from time to time upon any amount becoming due and payable by any Loan Party under any Loan Document, after the expiration of any grace period with respect thereto, to exercise, without notice to the Loan Parties (any such notice being expressly waived by each such Person), its banker's lien or right of combination of accounts or right of setoff and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by such Lender to or for the credit or the account of any Loan Party against such due and payable amount. Each Lender agrees to promptly notify Borrower and the Administrative Agent after any such setoff and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 11.07 Applicable Law. This Credit Agreement and the other Loan Documents shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein, but excluding all choice of law and conflicts of law rules thereof.

Section 11.08 Waivers; Amendment.

- (a) No failure or delay on the part of the Administrative Agent, the Fronting Agent, or any Lender in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuation of steps to enforce such a right or power, preclude any other or further