

**TERMS AND CONDITIONS FOR
LIFEFIT GROUP MIDCO GMBH
MAXIMUM EUR 120,000,000
SENIOR SECURED CALLABLE FLOATING RATE
BONDS 2019/2023**

ISIN: NO0010856966
First Issue Date: 26 July 2019

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1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions

In these terms and conditions (the “**Terms and Conditions**”):

“**Account Operator**” means a bank or other party duly authorised to operate as an account operator and through which a Holder has opened a Securities Account in respect of its Bonds.

“**Accounting Principles**” means the international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).

“**Acquisition**” means the Issuer’s acquisition of the Target.

“**Adjusted Nominal Amount**” means the total aggregate Nominal Amount of the Bonds outstanding at the relevant time less the total aggregate Nominal Amount of all Bonds owned by the Issuer, a Group Company or an Affiliate of the Issuer or a Group Company, irrespective of whether such Person is directly registered as owner of such Bonds.

“**Advance Purchase Agreement**” means:

- (a) an advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment in the normal course of business with credit periods which are normal for the relevant type of project contracts, or
- (b) any other trade credit incurred or provided in the ordinary course of business.

“**Affiliate**” means, in relation to any Person, any other Person directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purpose of this definition, “**control**” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing.

“**Bond**” means debt instruments (Sw. *skuldförbindelser*), each for the Nominal Amount issued by the Issuer under these Terms and Conditions, including the Initial Bonds and any Subsequent Bonds.

“**Business Day**” means a day in Norway and Sweden other than a Saturday, Sunday or other public holiday in Norway or Sweden.

“**Business Day Convention**” means the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day.

“**Call Option Amount**” means:

- (a) the Make Whole Amount if the call option is exercised after the First Issue Date up to (but not including) the First Call Date;
- (b) 103.750 per cent. of the Outstanding Nominal Amount if the call option is exercised on or after the First Call Date up to (but not including) the date falling thirty (30) months after the First Issue Date;
- (c) 102.625 per cent. of the Outstanding Nominal Amount if the call option is exercised on or after the date falling thirty (30) months after the First Issue Date up to (but not including) the date falling thirty-six (36) months after the First Issue Date;
- (d) 101.50 per cent. of the Outstanding Nominal Amount if the call option is exercised on or after the date falling thirty-six (36) months after the First Issue Date up to (but not including) the date falling forty-two (42) months after the First Issue Date;
- (e) 100.375 per cent. of the Outstanding Nominal Amount if the call option is exercised on the date falling forty-two (42) months after the First Issue Date up to (but not including) the date falling forty-five (45) months after the First Issue Date; and
- (f) 100.00 per cent. of the Outstanding Nominal Amount if the call option is exercised on the date falling forty-five (45) months after the First Issue Date up to (but not including) the Final Redemption Date.

“Cash and Cash Equivalents” means cash and cash equivalents of the Group from time to time in accordance with the applicable Accounting Principles.

“Change of Control Event” means the occurrence of an event or series of events whereby one or more Persons (other than the Sponsor or its Affiliates), acting in concert, acquire control, directly or indirectly, over more than fifty (50.00) per cent. of the voting shares of the Issuer, or the right to, directly or indirectly, appoint or remove the whole or a majority of the directors of the board of directors of the Issuer.

“Completion” means the completion of the Acquisition.

“Compliance Certificate” means a certificate, in the form agreed between the Trustee and the Issuer, signed by the Issuer certifying:

- (a) that so far as it is aware no Event of Default is continuing or, if it is aware that such event is continuing, specifying the event and steps, if any, being taken to remedy it;
- (b) if provided in connection with the testing of the Incurrence Test, that the Incurrence Test is met and including calculations and figures in respect of the Incurrence Test; and
- (c) if provided in connection with the Group’s annual audited consolidated financial statements:
 - (i) including a list of Material Group Companies and confirmation of additional entities required to accede as Guarantors (if any) for the purpose of Clause 14.9 (*Guarantors*); and
 - (ii) confirmation on compliance with Clause 14.6 (*Clean down period*).

“**Conditions Precedent**” means all documents and evidence required to be delivered by the Issuer pursuant to Clause 5.1 (*Initial Conditions Precedent*).

“**Conditions Subsequent**” means all documents and evidence required to be delivered by the Issuer pursuant to Clause 5.2 (*Conditions Subsequent*).

“**CSD**” means the central securities depository and registrar in respect of the Bonds from time to time, initially Verdipapirsentralen ASA (VPS) in Norway.

“**CSD Business Day**” means a day on which the book-entry securities system is open in accordance with the regulations of the CSD.

“**Delisting Event**” means, following an Equity Listing Event, the occurrence of an event or series of events whereby:

- (a) the Issuer's share are delisted from a Regulated Market; or
- (b) trading in the ordinary shares of the Issuer on the relevant Regulated Market is suspended for a period of fifteen (15) consecutive Business Days (when that Regulated Market is at the same time open for trading).

“**EBITDA**” means, in respect of the Reference Period, the consolidated profit of the Group from ordinary activities according to the latest Financial Report(s):

- (a) *before deducting* any amount of tax on profits, gains or income paid or payable by any Group Company;
- (b) *before deducting* any Net Finance Charges (for the avoidance of doubt, rental payments in respect of any lease or hire purchase contract which is not a Finance Lease shall not be considered a Finance Charge);
- (c) *before taking into account* any extraordinary items and any non-recurring items which are not in line with the ordinary course of business of the Group, in an aggregate amount not exceeding ten (10.00) per cent. of EBITDA of the relevant Reference Period when aggregated with any adjustment under paragraph (d) below;
- (d) *after taking into account* all cost savings and cost synergies reasonably projected by the Issuer to be obtained during the 12-month period following the closing date of any acquisition, in an aggregate amount not exceeding ten (10.00) per cent. of EBITDA of the relevant Reference Period when aggregated with any adjustment under paragraph (c) above and provided that any cost savings and cost synergies in aggregate exceeding 2.5 per cent of EBITDA of the relevant Reference Period shall be verified by an external auditor;
- (e) *before taking into account* any Transaction Costs and any transaction costs relating to any acquisition of any additional target company;
- (f) *not including* any accrued interest owing to any Group Company;
- (g) *before taking into account* any unrealised gains or losses on any derivative instrument (other than any derivative instruments which are accounted for on a hedge account basis);
- (h) *after adding back or deducting*, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course

of trading) and any loss or gain arising from an upward or downward revaluation of any asset;

- (i) *after deducting* the amount of any profit (or adding back the amount of any loss) of any Group Company which is attributable to minority interests;
- (j) *plus or minus*, as the case may be, the Group's share of the profits or losses of entities which are not part of the Group; and
- (k) *after adding back* any amount attributable to the amortisation, depreciation or depletion of assets of the Group.

“Escrow Account” means a bank account held by the Issuer into which the Net Proceeds from the Initial Bond Issue will be transferred, and which has been pledged in favour of the Trustee and the Holders (represented by the Trustee) under the Escrow Account Pledge Agreement.

“Escrow Account Pledge Agreement” means the German law pledge agreement entered into between the Issuer and the Trustee on or prior to the First Issue Date in respect of a first priority pledge over the Escrow Account and all funds held on the Escrow Account from time to time, granted in favour of the Trustee and the Holders (represented by the Trustee).

“Equity Listing Event” means an initial public offering of shares in the Issuer, after which such shares shall be quoted, listed, traded or otherwise admitted to trading on a regulated market or unregulated market.

“EUR” means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

“EURIBOR” means:

- (a) the applicable percentage rate per annum displayed on Thomson Reuters screen EURIBOR01 (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Quotation Day for the offering of deposits in EUR and for a period comparable to the relevant Interest Period; or
- (b) if no such rate as set out in paragraph (a) above is available for the relevant Interest Period, the rate calculated by the Paying Agent (rounded upwards to four decimal places) which results from interpolating on a linear basis between:
 - (i) the applicable screen rate for the longest period (for which that screen rate is available) which is less than the Interest Period; and
 - (ii) the applicable screen rate for the shortest period (for which that screen rate is available) which exceeds that Interest Period,

in each case as of or around 11 a.m. on the Quotation Day; or

- (c) if no rate is available for the relevant Interest Period pursuant to paragraph (a) and/or (b) above, the arithmetic mean of the rates (rounded upwards to four decimal places), as supplied to the Paying Agent at its request quoted by leading banks in the Stockholm interbank market reasonably selected by the Paying Agent, for deposits of EUR 10,000,000 for the relevant period; or

- (d) if no rate is available for the relevant Interest Period pursuant to paragraph (a) and/or (b) above and no quotation is available pursuant to paragraph (c) above, the Interest Rate which according to the reasonable assessment of the Paying Agent best reflects the Interest Rate for deposits in EUR offered for the relevant period,

and if any such rate is below zero (0), EURIBOR will be deemed to be zero (0).

“**Event of Default**” means an event or circumstance specified in Clause 15.1.

“**Final Redemption Date**” means 26 July 2023.

“**Finance Charges**” means, for the Reference Period, the aggregate amount of the accrued interest, commission, fees, discounts, payment fees, premiums or charges and other finance payments in respect of Financial Indebtedness whether paid, payable or capitalised by any Group Company according to the latest Financial Reports (calculated on a consolidated basis) other than Transaction Costs, capitalised interest in respect of any Shareholder Debt, interest on any loan owing to any Group Company and taking no account of any unrealised gains or losses on any derivative instruments other than any derivative instrument which are accounted for on a hedge accounting basis.

“**Finance Documents**” means the Terms and Conditions, the Trustee Agreement, the Intercreditor Agreement (if any), the Escrow Account Pledge Agreement, the Security Documents, the Guarantee Agreement and any other document designated to be a Finance Document by the Issuer and the Trustee.

“**Finance Lease**” means any lease or hire purchase contract, a liability under which would, in accordance with the accounting principles, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with the accounting principles in force prior to 1 January 2019, have been treated as an operating lease).

“**Financial Indebtedness**” means any indebtedness in respect of:

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any Finance Lease;
- (c) receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis);
- (d) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into account, provided that if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);
- (f) any counter indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and

(g) (without double counting) the amount of any liability in respect of any guarantee or other assurance against financial loss in respect of a type referred to in paragraphs (a) to (f) above.

“**Financial Report**” means the Group’s annual audited consolidated financial statements or the Group’s quarterly interim unaudited reports, which shall be prepared and made available according to paragraphs (a)(i) and (a)(ii) of Clause 14.13 (*Information undertakings*).

“**First Call Date**” means the date falling twenty-four (24) months after the First Issue Date.

“**First Issue Date**” means 26 July 2019.

“**Floating Rate Margin**” means 7.50 per cent. *per annum*.

“**Force Majeure Event**” has the meaning set forth in Clause 27.1.

“**Group**” means the Issuer and each of its Subsidiaries from time to time.

“**Group Company**” means the Issuer or any of its Subsidiaries.

“**Guarantee**” means the guarantees provided by the Guarantors pursuant to the Guarantee Agreement.

“**Guarantee Agreement**” means the guarantee agreement entered into or to be entered into between the Issuer, each Guarantor and the Security Agent pursuant to which the Secured Obligations will be guaranteed by the Guarantors (which shall contain customary guarantee limitation and parallel debt language).

“**Guarantor**” means Barry’s Bootcamp GmbH, Elbgym GmbH and each other Group Company which becomes a Guarantor in accordance with Clause 6.2 (*Guarantees*).

“**Hedge Counterparty**” has the meaning ascribed to that term in the Intercreditor Agreement.

“**Holder**” means the Person who is registered on a Securities Account as direct registered owner (Sw. *ägare*) or nominee (Sw. *förvaltare*) with respect to a Bond.

“**Holders’ Meeting**” means a meeting among the Holders held in accordance with Clause 18 (*Holders’ Meeting*).

“**Holding Company**” means, in relation to a Person, any other Person in respect of which it is a Subsidiary.

“**IFRS**” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

“**Incurrence Test**” shall have the meaning set forth in Clause 13.2 (*Incurrence Test*).

“**Initial Bond**” means the Bonds issued on the First Issue Date.

“**Initial Bond Issue**” has the meaning set forth in Clause 2.1.

“**Initial Conditions Precedents**” means the documentation and evidence set out in paragraphs (a) to (d) of Clause 5.1 (*Conditions Precedent*).

“**Intercreditor Agreement**” means the intercreditor agreement which may be entered into if required by the Issuer, substantially based on the terms set out in the intercreditor principles set out in Schedule 1 (*Intercreditor Principles*) hereto, on or after the First Issue Date, between, amongst others the Issuer, the Super Senior RCF Creditor (or its representative), any

Hedge Counterparty, any creditor of Shareholder Debt and the Trustee as Security Agent and the Trustee.

“**Interest**” means the interest on the Bonds calculated in accordance with Clauses 11.1 to 11.3.

“**Interest Payment Date**” means 8 January, 8 April, 8 July and 8 October each year (with the first Interest Payment Date being 8 October 2019 (short first interest period) and the last Interest Payment Date being the Final Redemption Date (long last interest period) (or any final Redemption Date prior thereto), or to the extent such day is not a CSD Business Day, the CSD Business Day following from an application of the Business Day Convention.

“**Interest Period**” means each period beginning on (and including) the First Issue Date or any Interest Payment Date to (but excluding) the next succeeding Interest Payment Date (or a shorter period if relevant) and, in respect of Subsequent Bonds, each period beginning on (and including) the Interest Payment Date falling immediately prior to their issuance and ending on (but excluding) the next succeeding Interest Payment Date (or a shorter period if relevant).

“**Interest Rate**” means EURIBOR (3 months) plus the Floating Rate Margin.

“**Issue Date**” means the First Issue Date and any subsequent date when issuance of Subsequent Bonds take place.

“**Issuer**” means LifeFit Group MidCo GmbH, a limited liability company incorporated in Germany and registered with the local court (*Amtsgericht*) of Munich under HRB 248092.

“**Leverage Ratio**” means the ratio of Net Interest Bearing Debt to EBITDA.

“**Make Whole Amount**” means the sum of:

- (a) 103.750 per cent. of the Outstanding Nominal Amount; and
- (b) the remaining interest payments up to, but not including, the First Call Date (assuming that the Interest Rate for the period from the relevant record date to the First Call Date will be equal to the Interest Rate in effect on the date on which notice of redemption is given to the Holders),

together with accrued but unpaid interest on the redeemed amount up to the relevant Redemption Date and where “relevant record date” shall mean a date agreed upon between the Trustee, the CSD and the Issuer in connection with such repayment.

“**Market Loan**” means any loan or other indebtedness where an entity issues commercial papers, certificates, convertibles, subordinated debentures, bonds or any other debt securities (including, for the avoidance of doubt, medium term note programmes and other market funding programmes), provided in each case that such instruments and securities are or can be subject to trade on a Regulated Market or an unregulated recognised market place.

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business, financial condition or operations of the Group taken as a whole;
- (b) the Group’s ability to perform and comply with the Finance Documents; or
- (c) the validity or enforceability of the Finance Documents.

“Material Group Company” means:

- (a) the Issuer;
- (b) following Completion, the Target, Elbgym GmbH and Barry’s Bootcamp GmbH; and
- (c) any other Group Company with earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing five (5.00) per cent. or more of EBITDA, or which has assets representing five (5.00) per cent. or more of Total Assets, in each case calculated on a consolidated basis according to the latest Financial Report.

“Material Intra-Group Loan” means any intra-Group loan provided by the Issuer or a Guarantor to any of its Subsidiaries where:

- (a) the term is at least twelve (12) months; and
- (b) the principal amount exceeds EUR 2,000,000 (or its equivalent in any other currency or currencies) (when aggregate with all other intra-Group loans between the same intra-Group creditor and debtor).

“Net Finance Charges” means, for the Reference Period, the Finance Charges according to the latest Financial Report(s), after deducting any interest payable for that Reference Period to any Group Company and any interest income relating to Cash and Cash Equivalents.

“Net Interest Bearing Debt” means the consolidated interest bearing Financial Indebtedness of the Group:

- (a) *excluding* guarantees, bank guarantees, Shareholder Debt, any claims subordinated pursuant to a subordination agreement, operating leases and interest bearing Financial Indebtedness borrowed from any Group Company; and
- (b) *less* Cash and Cash Equivalents.

“Net Proceeds” means the proceeds from the Initial Bond Issue or any Subsequent Bond Issue after deduction has been made for the Transaction Costs payable by the Issuer to the Sole Bookrunner and the Paying Agent (if the Sole Bookrunner and/or the Paying Agent has requested that their respective fees and costs shall be deducted) for the services provided in relation to the placement and issuance of the Bonds.

“Nominal Amount” has the meaning set forth in Clause 2.1.

“Outstanding Nominal Amount” means the Nominal Amount less the amount of any repayments and amortisations made.

“Parent” means LifeFit Group TopCo GmbH, a limited liability company incorporated in Germany and registered with the local court (*Amtsgericht*) of Munich under HRB 248091.

“Paying Agent” means the legal entity appointed by the Issuer to act as its paying agent with respect to the Bonds in the CSD from time to time, being Pareto Securities AS on the First Issue Date.

“Permitted Debt” means any Financial Indebtedness:

- (a) incurred under the Bonds (except for any Subsequent Bonds);
- (b) incurred by the Issuer under any Super Senior RCF;

- (c) incurred pursuant to any Finance Leases entered into in the ordinary course of the Group's business and relating to equipment, in a maximum aggregate amount not at any time exceeding EUR 15,000,000;
- (d) under any guarantee issued by a Group Company or pursuant to a counter-indemnity provided to a bank or other third-party provider of a guarantee;
- (e) arising under a foreign exchange transaction or a commodity transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates or prices where the exposure arises in the ordinary course of business or in respect of payments to be made under the Terms and Conditions and/or the Super Senior RCF, but not any transaction for investment or speculative purposes;
- (f) arising under any interest rate hedging transactions in respect of payments to be made under the Terms and Conditions and/or the Super Senior RCF, but not any transaction for investment or speculative purposes;
- (g) incurred under Advance Purchase Agreements;
- (h) incurred under any Shareholder Debt, provided that Transaction Security has been granted in respect of such Shareholder Debt in accordance with paragraph (c)(iv) of Clause 6.1 (*Transaction Security*);
- (i) incurred by the Issuer if such Financial Indebtedness:
 - (i) is incurred as a result of a Subsequent Bond Issue and meets the Incurrence Test on a *pro forma* basis; or
 - (ii)
 - (A) ranks *pari passu* or is subordinated to the obligations of the Issuer under the Finance Documents; and
 - (B) meets the Incurrence Test on a *pro forma* basis; and
 - (C) has a final maturity date or a final redemption date and, if applicable, early redemption dates or instalment dates, which in each case occur after the Final Redemption Date;
- (j) taken up from a Group Company;
- (k) incurred in connection with the redemption of the Bonds in order to fully refinance the Bonds and provided further that such Financial Indebtedness is subject to an escrow arrangement up until the redemption of the Bonds (taking into account the rules and regulations of the CSD), for the purpose of securing, inter alia, the redemption of the Bonds;
- (l) incurred under or pursuant to any earn-out obligation relating to any acquisition (including the Elbgym acquisition) in an aggregate amount not exceeding EUR 4,000,000 (or its equivalent in any other currency or currencies) at any time; and
- (m) any other Financial Indebtedness incurred by Group Companies not in aggregate exceeding EUR 2,000,000 (or its equivalent in any other currency or currencies).

“Permitted Security” means any security:

- (a) provided pursuant to the Finance Documents (including in respect of any Subsequent Bonds);
- (b) provided for the Super Senior RCF;
- (c) arising by operation of law or in the ordinary course of business (including collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);
- (d) provided in relation to any lease agreement entered into by a Group Company;
- (e) arising under any netting or set off arrangements under financial derivatives transactions or bank account arrangements, including group cash pool arrangements;
- (f) provided over bank accounts and/or proceeds pertaining to sold receivables with respect to factoring on a non-recourse basis; or
- (g) provided pursuant to paragraph (e), (f), (k) or (m) of the definition of Permitted Debt.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality.

“Quotation Day” means, in relation to (i) an Interest Period for which an Interest Rate is to be determined, two (2) Business Days before the immediately preceding Interest Payment Date (or in respect of the first Interest Period, two (2) Business Days before the First Issue Date), or (ii) any other period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

“Record Date” means the date on which a Holder’s ownership of Bonds shall be recorded in the CSD as follows:

- (a) in relation to payments pursuant to these Terms and Conditions, the date designated as the relevant Record Date in accordance with the rules of the CSD from time to time; or
- (b) for the purpose of casting a vote with regard to Clause 17 (*Decision by Holders*), the date falling on the immediate preceding Business Day to the date of that Holders’ decision being made, or another relevant date as accepted by the Agent in accordance with these Terms and Conditions.

“Redemption Date” means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 12 (*Redemption and repurchase of the Bonds*).

“Reference Period” means each period of twelve (12) consecutive calendar months ending on a Testing Date.

“Regulated Market” means any regulated market as defined in the Markets in Financial Instruments Directive 2014/65/EU (MiFID II), as amended.

“Secured Obligations” means all present and future obligations and liabilities of the Issuer and/or the Group to the Secured Parties under the Finance Documents, (if the Super Senior RCF Creditor or its representative has entered into the Intercreditor Agreement) to the Super Senior RCF Creditor under the Super Senior RCF and the Trustee, together with all costs, charges and expenses incurred by any Secured Parties in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents, or any other document evidencing such liabilities.

“Secured Parties” has the meaning ascribed to that term in the Intercreditor Agreement.

“Securities Account” means the account for dematerialised securities maintained by the CSD in which (i) an owner of such security is directly registered or (ii) an owner’s holding of securities is registered in the name of a nominee.

“Security” means a mortgage, charge, pledge, lien, security assignment or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

“Security Agent” means Nordic Trustee & Agency AB (publ), holding the Transaction Security on behalf of the Secured Parties.

“Security Documents” means any document required to be delivered to the Agent under Clause 5.2 (*Conditions Subsequent*) or Clause 6.1 (*Transaction Security*) together with any other document entered into by any Group Company creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Group Companies under any of the Finance Documents. any other security agreement entered into by a Group Company pursuant to these Terms and Conditions or the Intercreditor Agreement.

“Shareholder Debt” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by the Issuer or another Group Company as debtor from the Sponsor or any other Holding Company of the Issuer, if such debt:

- (a) according to its terms and pursuant to the Intercreditor Agreement or another subordination agreement are subordinated to the obligations of the Issuer under the Finance Documents;
- (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Redemption Date; and
- (c) according to its terms yields only payment-in-kind interest or cash interest that is payable after the Final Redemption Date (unless a Restricted Payment is permitted under the Finance Documents).

“Sole Bookrunner” means Pareto Securities AB (reg. no. 556206-8956, P.O. Box 7415, SE-103 91 Stockholm, Sweden).

“Sponsor” means OCM Luxembourg EPF III SARL.

“Subsequent Bond Issue” has the meaning set forth in Clause 2.4

“Subsequent Bonds” means any Bonds issued after the First Issue Date on one or more occasions.

“**Subsidiary**” means, in relation to any Person, another Person in respect of which such Person, directly or indirectly:

- (a) owns shares or ownership rights representing more than fifty (50) per cent of the total number of votes held by the owners;
- (b) otherwise controls more than fifty (50) per cent of the total number of votes held by the owners; or
- (c) has the power to appoint and remove all, or the majority of, the members of the board of directors or other governing body.

“**Super Senior RCF**” means any facility or facilities provided to the Issuer for general corporate purposes of the Group (and any refinancing, amendment or replacements thereof), amended from time to time (as the case may be), in an aggregate amount not exceeding EUR 10,000,000 (or its equivalent in any other currency or currencies).

“**Super Senior RCF Creditor**” means any creditor under a Super Senior RCF.

“**Target**” means smileX InterCo GmbH, a limited liability company incorporated in Germany and registered with the local court (*Amtsgericht*) of Saarbrücken under HRB 102812.

“**Target Group**” means the Target and its Subsidiaries from time to time.

“**Testing Date**” has the meaning ascribed to that term in Clause 13.3 (*Calculation of the Incurrence Test*).

“**Total Assets**” means the consolidated book value of the Group’s assets according to the latest Financial Report.

“**Transaction Costs**” means all fees, costs and expenses, stamp, registration and other taxes incurred by the Issuer or any other Group Company in connection with (i) the Bond Issue, (ii) the Acquisition and (iii) the listing of the Bonds.

“**Transaction Security**” means the Security provided for the Secured Obligations pursuant to the Security Documents.

“**Trustee**” means the Holders’ agent under these Terms and Conditions, from time to time; initially Nordic Trustee & Agency AB (publ) (reg.no. 556882-1879, P.O. Box 7329 SE-103 90 Stockholm, Sweden).

“**Trustee Agreement**” means the agreement entered into between the Trustee and the Issuer on or prior to the First Issue Date regarding, *inter alia*, the remuneration payable to the Trustee.

“**Written Procedure**” means the written or electronic procedure for decision making among the Holders in accordance with Clause 19 (*Written Procedure*).

1.2 **Construction**

- (a) Unless a contrary indication appears, any reference in these Terms and Conditions to:
 - (i) “**assets**” includes present and future properties, revenues and rights of every description;

- (ii) a “**Finance Document**” or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (iii) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
 - (iv) a “**regulation**” includes any regulation, rule or official directive (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department;
 - (v) an “**enforcement**” of a Guarantee means making a demand for payment under a Guarantee;
 - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
 - (vii) a time of day is a reference to Stockholm time.
- (b) An Event of Default is continuing if it has not been remedied or waived.
 - (c) When ascertaining whether a limit or threshold specified in EUR has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR for the previous Business Day, as published by the European Central Bank on its website (www.ecb.europa.eu). If no such rate is available, the most recently published rate shall be used instead.
 - (d) A notice shall be deemed to be sent by way of press release if it is made available to the public within the European Economic Area promptly and in a non-discriminatory manner.
 - (e) No delay or omission of the Trustee or of any Holder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.

1.3 **Conflict of Terms**

In case of any conflict of terms between the terms of the Intercreditor Agreement (if any) and any other Finance Document, the Intercreditor Agreement shall take precedent.

2. **THE AMOUNT OF THE BONDS AND UNDERTAKING TO MAKE PAYMENTS**

2.1 The aggregate amount of the bond loan will be an amount of up to EUR 120,000,000 which will be represented by Bonds, each of a nominal amount of EUR 1,000 or full multiples thereof (the “**Nominal Amount**”). The total nominal amount of the Initial Bond Issue is EUR 40,000,000 (the “**Initial Bond Issue**”). All Initial Bonds are issued on a fully paid basis at an issue price of one hundred (100.00) per cent. of the Nominal Amount.

2.2 The ISIN for the Bonds is NO0010856966.

2.3 The minimum permissible investment in connection with the Initial Bond Issue is EUR 100,000.

- 2.4 The Issuer may at one or more occasions after the First Issue Date issue Subsequent Bonds under these Terms and Conditions (each such issue, a “**Subsequent Bond Issue**”), until the total amount under such Subsequent Bond Issue(s) and the Initial Bond Issue equals EUR 120,000,000, always provided that the Incurrence Test (calculated *pro forma* including such Subsequent Bond Issue) is met.
- 2.5 Any Subsequent Bonds shall benefit from and be subject to the Finance Documents and, for the avoidance of doubt, the ISIN, the Interest Rate, the Nominal Amount and the Final Redemption Date applicable to the Initial Bonds shall also apply to Subsequent Bonds. The price of Subsequent Bonds may be set at the Nominal Amount, at a discount or at a higher price than the Nominal Amount.
- 2.6 The Issuer undertakes to repay the Bonds, to pay Interest and to otherwise act in accordance and comply with these Terms and Conditions.
- 2.7 The Bonds are denominated in EUR and each Bond is constituted by these Terms and Conditions.
- 2.8 By subscribing for Bonds, each initial Holder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds each subsequent Holder confirms such agreements.

3. STATUS OF THE BONDS

Subject to the Intercreditor Agreement, the Bonds constitute direct, general, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank at least *pari passu* with all direct, unconditional, unsubordinated and unsecured obligations of the Issuer, except those obligations which are mandatorily preferred by law, and without any preference among them.

4. USE OF PROCEEDS

- (a) The Net Proceeds of the Initial Bonds Issue shall initially be deposited on the Escrow Account.
- (b) Upon release of Net Proceeds from the Escrow Account, the Net Proceeds from the Initial Bond Issue shall be applied towards:
- (i) financing the Acquisition;
 - (ii) financing Transaction Costs; and
 - (iii) financing general corporate purposes of the Group.
- (c) The Net Proceeds from any Subsequent Bond shall be applied towards general corporate purposes of the Group, including but not limited to capital expenditure and acquisitions.

5. CONDITIONS PRECEDENT FOR DISBURSEMENT AND CONDITIONS SUBSEQUENT

5.1 Conditions Precedent

The Trustee's approval of the disbursement of the Net Proceeds from the Initial Bond Issue (such date being a "**Disbursement Date**") from the Escrow Account is subject to the Trustee being satisfied it has received the following documents:

- (a) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for the Issuer and the Parent, together constituting evidence that the Finance Documents have been duly executed;
- (b) copies of the Terms and Conditions, the Escrow Account Pledge Agreement and the Trustee Agreement, duly executed;
- (c) an agreed form Compliance Certificate;
- (d) legal opinion(s) on the capacity and due execution of each party to a Finance Document not incorporated in Sweden and the validity and enforceability of the Finance Documents not governed by Swedish law (save for the Finance Documents delivered as Conditions Subsequent), in each case issued by a reputable law firm (if applicable);
- (e) final, unqualified, audited Financial Report for Fitness First Germany GmbH for the financial year ended 31 October 2018;
- (f) evidence of an equity contribution, in the form of share capital, an unconditional shareholder contribution or Shareholder Debt, by the Sponsor to the Issuer for the purposes of the Acquisition in an amount of no less than EUR 10,000,000; and
- (g) a closing certificate issued by the Issuer confirming that:
 - (i) all closing conditions for the Acquisition (except for the payment of the purchase price) have been satisfied or waived and that the Acquisition will be consummated immediately upon disbursement of the Net Proceeds from the Escrow Account; and
 - (ii) any existing Financial Indebtedness and/or existing Security not constituting Permitted Debt or Permitted Security, as applicable, incurred or granted by or over the Group and/or the Target Group will be repaid or released, as applicable, on the Disbursement Date.

5.2 Conditions Subsequent

- (a) The Issuer shall, within five (5) Business Days of the First Issue Date, provide the following documentation and evidence to the Trustee:
 - (i) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for the Parent and each relevant Group Company, together constituting evidence that the Finance Documents then due to be executed have been duly executed;

- (ii) a share pledge agreement in customary form in respect of the shares in Issuer duly executed by the grantor of such pledge;
 - (iii) a share pledge agreement in customary form in respect of the shares in the Target duly executed by the grantor of such pledge;
 - (iv) an assignment agreement in customary form in respect of all present and future shareholder loans from the Parent to the Issuer and any further pledge agreement required pursuant to paragraph (c)(iv) of Clause 6.1 (*Transaction Security*) (if any);
 - (v) an assignment agreement in customary form in respect of Material Intra-Group Loans made by the Issuer duly executed by the Issuer;
 - (vi) evidence that the security interests set out in paragraphs (ii) to (v) above have been duly perfected (if applicable); and
 - (vii) a legal opinion in customary form and content on capacity, due execution, validity and enforceability in respect of the pledge agreements set out in paragraphs (ii) to (v) above.
- (b) The Issuer shall, no later than sixty (60) Business Days following the Disbursement Date, provide the Trustee with the following documents and evidence:
- (i) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for each Guarantor and each other party to a Finance Document, together constituting evidence that the Finance Documents have been duly executed (including shareholder resolutions (if applicable));
 - (ii) a duly executed copy of the Guarantee Agreement;
 - (iii) copies of the Security Documents in relation to the Target Group, duly executed and evidence that the documents and other evidences to be delivered pursuant to such Security Documents have been delivered and satisfied;
 - (iv) evidence in the form or copies of signed guarantee documentation that Barry's Bootcamp GmbH, Elbgym GmbH and each other Guarantor has acceded to the Guarantee Agreement as a Guarantor;
 - (v) evidence in the form of a certificate signed by the Issuer that Clause 14.9 (*Guarantors*) is complied with; and
 - (vi) legal opinion(s) on the capacity and due execution of each Group Company which is a party to a Finance Document and the validity and enforceability of the Finance Documents, in each case in customary form and content issued by a reputable law firm.
- (c) The Issuer shall procure the delivery of a legal opinion on the capacity and due execution of each Group Company which enters into or accedes to the Intercreditor Agreement and the validity and enforceability of the Intercreditor Agreement, issued by a reputable law firm.

- (d) If additional time is required for any registration measures or similar required under local law in order to grant the Conditions Subsequent Security and Guarantees the Issuer shall provide to the Trustee confirmation from a reputable local legal counsel that such registrations are required, and the Trustee shall in such case grant the Issuer sufficient time to carry out the necessary registrations. The Conditions Subsequent in relation to such jurisdiction shall then be granted no later than sixty (60) Business Days following the completion of such registration.

5.3 **Conditions Precedent for Subsequent Bonds**

The Paying Agent shall pay the Net Proceeds from the issuance of any Subsequent Bonds to the Issuer on the later of (i) the date of the issue of such Subsequent Bonds and (ii) the date on which the Trustee notifies the Paying Agent that it has received the following:

- (a) a copy of a resolution from the board of directors of the Issuer approving the issue of the Subsequent Bonds and resolving to enter into documents necessary in connection therewith;
- (b) a Compliance Certificate from the Issuer confirming that the relevant Incurrence Test is met and that no Event of Default is continuing or would result from the issue of the Subsequent Bonds; and
- (c) any other documents and information as agreed between the Trustee and the Issuer.

5.4 **No responsibility for documentation**

The Trustee may assume that the documentation and evidence delivered to it pursuant to Clauses 5.1, 5.2 or 5.3 is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Trustee does not have to verify or assess the contents of any such documentation or evidence. None of the documentation and evidence delivered to it pursuant to Clauses 5.1, 5.2 or 5.3 are reviewed by the Trustee from a legal or commercial perspective of the Holders.

6. **TRANSACTION SECURITY AND GUARANTEES**

6.1 **Transaction Security**

- (a) As continuing security for the due and punctual fulfilment of the Secured Obligations, the Issuer grants (and shall procure that any other Group Company (as applicable) grants) as first ranking security to the Secured Parties (as represented by the Trustee) the Transaction Security on the terms set out in the Security Documents and the Intercreditor Agreement (if any).
- (b) The Security Agent shall hold the Transaction Security on behalf of the Secured Parties in accordance with the Security Documents and the Intercreditor Agreement (if any).
- (c) The Issuer shall ensure that:
 - (i) Security is granted in favour of the Secured Parties over the shares of any Group Company becoming a Guarantor pursuant to Clause 6.2 (*Guarantees*) at the same time such Group Company becomes a Guarantor;

- (ii) Security is granted in favour of the Secured Parties over the shares of any Material Group Company acquired on or after the First Issue Date;
 - (iii) Security is granted in favour of the Secured Parties over the bank accounts of any Group Company becoming a Guarantor pursuant to Clause 6.2 (*Guarantees*) at the same time such Group Company becomes a Guarantor;
 - (iv) upon its incurrence, Security is granted in favour of the Secured Parties over any shareholder loan between the Sponsor or another Holding Company of the Issuer as creditor and the Issuer or another Group Company as debt, whereby any present and future shareholder loans between such Holding Company as creditor and Group Company as debtor shall be pledged; and
 - (v) within sixty (60) Business Days of its incurrence, Security is granted in favour of the Secured Parties over any Material Intra-Group Loan.
- (d) The Issuer shall:
- (i) ensure that the Security Documents and all documents relating thereto are duly executed in favour of the Trustee and the Holders (as represented by the Trustee) and that such documents are legally valid, perfected, enforceable and in full force and effect according to their terms;
 - (ii) execute and/or procure the execution of such further documentation as the Trustee may reasonably require in order for the Holders and the Trustee to at all times maintain the security position and guarantee position envisaged under the Finance Documents; and
 - (iii) ensure that the relevant pledgors carries out any action to protect, perfect or give priority to the Transaction Security purported to be created by paragraph (c) above.
- (e) Notwithstanding paragraphs (c) and (d) above:
- (i) all Transaction Security shall be subject to, and limited as required by, financial assistance regulations and other applicable corporate law limitations;
 - (ii) a Group Company which is not a directly or indirectly wholly owned Subsidiary of the Issuer and any shareholder of such Group Company which itself is not a Subsidiary of the Issuer shall be excluded from any requirement under this Clause 6.1 to charge its assets under any Security Document provided that commercially reasonable endeavours have been used by the Issuer to obtain the consent of the relevant minority shareholders for the applicable Group Company to provide such Transaction Security (but, in the case of a charge over its assets only, only if such assets are material) and provided further that there shall be no obligation on any Group Company to seek such consent from a minority shareholder if this would be materially adverse to the commercial relationship with that minority shareholder, as determined by the Issuer; and

- (iii) if a Group Company grants Transaction Security over a bank account, it shall be free to deal with that bank account (save for the Escrow Account) until an Event of Default which is continuing.
- (f) Subject to the terms of the Intercreditor Agreement, except if otherwise decided by the Holders according to the procedures set out in Clauses 17 (*Decisions by Holders*), 18 (*Holders' Meeting*) and 19 (*Written Procedure*), the Trustee is, without first having to obtain the Holders' consent, entitled to enter into binding agreements with the Group Companies or third parties if it is, in the Trustee's sole discretion, necessary for the purpose of establishing, maintaining, altering, releasing or enforcing the Transaction Security or the Guarantees or for the purpose of settling the various Holders' relative rights to the Transaction Security or the Guarantees. The Trustee is entitled to take all measures available to it according to the Security Documents and the Guarantees.

6.2 Guarantees

- (a) Subject to the Intercreditor Agreement (if any), each Guarantor shall unconditionally and irrevocably guarantee (Sw. *proprieborgen*) to the Secured Parties (as represented by the Security Agent) as for its own debts (Sw. *såsom för egen skuld*) the full and punctual payment by the Issuer of the Secured Obligations in accordance with the Guarantee Agreement. The obligations and liabilities of the Guarantors under the Guarantee Agreement shall be limited if required (but only if and to the extent required) under the laws of the jurisdiction in which the relevant Guarantor is incorporated.
 - (b) The Security Agent shall hold the Guarantees on behalf of the Secured Parties in accordance with the Guarantee Agreement and the Intercreditor Agreement (if any).
 - (c) Subject to paragraph (e) below, the Issuer shall ensure that, within sixty (60) Business Days of the Disbursement Date:
 - (i) Barry's Bootcamp GmbH and Elbgym GmbH enters into or accedes to the Guarantee Agreement;
 - (ii) each Material Group Company enters into or accedes to the Guarantee Agreement; and
 - (iii) if necessary to ensure that:
 - (A) the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors represents not less than ninety (90) per cent. of EBITDA; and
 - (B) the aggregate assets of the Guarantors represents not less than ninety (90) per cent. of Total Assets,
- procure that further Group Companies become Guarantors.

- (d) Subject to paragraph (e) below, the Issuer shall ensure that, within sixty (60) Business Days after delivery of each of its annual audited consolidated Financial Reports:
- (i) any Material Group Company which is not a Guarantor becomes a Guarantor; and
 - (ii) if necessary to ensure that:
 - (A) the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors represents not less than ninety (90) per cent. of EBITDA; and
 - (B) the aggregate assets of the Guarantors represents not less than ninety (90) per cent. of Total Assets,
 procure that further Group Companies become Guarantors,
- in each case as evidenced by such Financial Report and Compliance Certificate.
- (e) Notwithstanding paragraphs (c) and (d) above:
- (i) all Guarantees shall be subject to, and limited as required by, financial assistance regulations and other applicable corporate law limitations;
 - (ii) a Group Company which is not a directly or indirectly wholly owned Subsidiary of the Issuer shall be excluded from the requirement to become a Guarantor provided that commercially reasonable endeavours have been used by the Issuer to obtain the consent of the relevant minority shareholders for the applicable Group Company to provide such Guarantee and provided further that there shall be no obligation on any Group Company to seek such consent from a minority shareholder if this would be materially adverse to the commercial relationship with that minority shareholder, as determined by the Issuer; and
 - (iii) the Issuer need only perform its obligations under this Clause 6.2 above if it is not unlawful for the relevant person to become a Guarantor and that person becoming a Guarantor would not result in personal liability for that person's directors or other management, provided that each Group Company must use, and must procure that the relevant person uses, all reasonable endeavours lawfully available to avoid any such illegality or personal liability, including agreeing to a limit on the amount guaranteed.

6.3 Enforcement of Transaction Security and Guarantees

- (a) If the Bonds are declared due and payable according to Clause 15 (*Termination of the Bonds*), or following the Final Redemption Date, the Trustee is, without first having to obtain the Holders' consent, entitled to enforce the Transaction Security and the Guarantees in such manner and under such conditions that the Trustee finds acceptable (if in accordance with the Security Documents, the Guarantee Agreement and the Intercreditor Agreement (if any)).

- (b) Subject to the terms of the Intercreditor Agreement (if any), if a Holders' Meeting has been convened, or a Written Procedure has been instigated, to decide on the termination of the Bonds and/or the enforcement of all or any of the Transaction Security or the Guarantees, the Trustee is obligated to take actions in accordance with the Holders' decision regarding the Transaction Security or Guarantees. However, if the Bonds are not terminated due to that the cause for termination has ceased or due to any other circumstance mentioned in the Finance Documents, the Trustee shall not enforce the Transaction Security or the Guarantees. Subject to the terms of the Intercreditor Agreement (if any), if the Holders, without any prior initiative from the Trustee or the Issuer, have made a decision regarding termination of the Bonds and enforcement of the Transaction Security or the Guarantees in accordance with the procedures set out in Clauses 17 (*Decisions by Holders*), 18 (*Holders' Meeting*) and 19 (*Written Procedure*), the Trustee shall promptly declare the Bonds terminated and enforce the Transaction Security or the Guarantees (as applicable). The Trustee is however not liable to take action if the Trustee considers cause for termination and/or acceleration not to be at hand, unless the instructing Holders in writing commit to holding the Trustee indemnified and, at the Trustee's own discretion, grant sufficient security for the obligation.
- (c) Funds that the Trustee receives (directly or indirectly) on behalf of Secured Parties in connection with the termination of the Bonds or the enforcement of any or all of the Transaction Security or the Guarantees constitute escrow funds (Sw. *redovisningsmedel*) according to the Escrow Funds Act (Sw. *lag (1944:181) om redovisningsmedel*) and must be held on a separate interest bearing account on behalf of the Secured Parties. The Trustee shall promptly arrange for payments to be made to the Holders in such case. The Trustee shall arrange for payments of such funds in accordance with Clause 18 (*Distribution of proceeds*) as soon as reasonably practicable. If the Trustee deems it appropriate, it may, in accordance with this paragraph (c), instruct the CSD to arrange for payment to the Holders.
- (d) For the purpose of exercising the rights of the Holders and the Trustee under the Finance Documents and for the purpose of distributing any funds originating from the enforcement of any Transaction Security or a Guarantee, the Issuer irrevocably authorises and empowers the Trustee to act in the name of the Issuer, and on behalf of the Issuer, to instruct the CSD to arrange for payment to the Holders in accordance with paragraph (c) above. To the extent permissible by law, the powers set out in this paragraph (d) are irrevocable and shall be valid for as long as any Bonds remain outstanding. The Issuer shall immediately upon request by the Trustee provide the Trustee with any such documents, including a written power of attorney, which the Trustee deems necessary for the purpose of carrying out its duties under paragraph (c) above (including as required by the CSD in order for the CSD to accept such payment instructions). Especially, the Issuer shall, upon the Trustee's request, provide the Trustee with a written power of attorney empowering the Trustee to change the bank account registered with the CSD to a bank account in the name of the Trustee and to instruct the CSD to pay out funds originating from an enforcement in accordance with paragraph (c) above to the Holders through the CSD.

6.4 **Release of Transaction Security and Guarantees**

The Security Agent may, subject to the terms of the Intercreditor Agreement release Guarantees and Transaction Security in accordance with the terms of the Security Documents, the Guarantee Agreement and the Intercreditor Agreement (as applicable).

7. **THE BONDS AND TRANSFERABILITY**

- 7.1 Each Holder is bound by these Terms and Conditions without there being any further actions required to be taken or formalities to be complied with.
- 7.2 The Bonds are freely transferable. All Bond transfers are subject to these Terms and Conditions and these Terms and Conditions are automatically applicable in relation to all Bond transferees upon completed transfer.
- 7.3 Upon a transfer of Bonds, any rights and obligations under the Finance Documents relating to such Bonds are automatically transferred to the transferee.
- 7.4 No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Holder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds, (due to, e.g., its nationality, its residency, its registered address or its place(s) of business). Each Holder must ensure compliance with such restrictions at its own cost and expense.
- 7.5 The Bonds have not been registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) and the Issuer is under no obligation to arrange for registration of the Bonds under the Securities Act or under any other law or regulation.
- 7.6 The Bonds are not offered to and may not be subscribed by investors located in the United States except for “Qualified Institutional Buyers” (“**QIB**”) within the meaning of Rule 144A under the Securities Act. In the application form relating to the Bonds, each person applying for the Bonds must confirm whether it is a U.S. person as defined in Rule 902 of Regulation S under the Securities Act, and if it is a U.S. person it must confirm, *inter alia*, that it is a QIB.
- 7.7 Holders located in the United States are not permitted to transfer Bonds except (a) subject to an effective registration statement under the Securities Act, (b) to a person that the Holder reasonably believes is a QIB within the meaning of Rule 144A that is purchasing for its own account, or the account of another QIB, to whom notice is given that the resale, pledge or other transfer may be made in reliance on Rule 144A, (c) outside the United States in accordance with Regulation S under the Securities Act, (d) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available) and (e) pursuant to any other available exemption from registration under the Securities Act, subject to the receipt by the Issuer of an opinion of counsel or such other evidence that the Issuer may reasonably require confirming that such sale or transfer is in compliance with the Securities Act.

7.8 For the avoidance of doubt and notwithstanding the above, a Holder which allegedly has purchased Bonds in contradiction to mandatory restrictions applicable may nevertheless utilise its voting rights under these Terms and Conditions and shall be entitled to exercise its full rights as a Holder hereunder in each case until such allegations have been resolved.

8. REGISTRATION OF THE BONDS

8.1 The Bonds will be registered for the Holders on their respective Securities Accounts and no physical Bonds will be issued. Accordingly, the Bonds will be registered in accordance with the applicable laws for the CSD. Registration requests relating to the Bonds shall be directed to an Account Operator. The Issuer will at all times ensure that the registration of the Bonds in the CSD is correct and shall immediately upon any amendment or variation of these Terms and Conditions give notice to the CSD of any such amendment or variation.

8.2 The Bonds have not been registered under any other country's legislation than that of the country in which the Bonds are registered, being Norway. Save for the registration of the Bonds in the CSD, the Issuer is under no obligation to register, or cause the registration of, the Bonds in any other registry or under any other legislation than that of Norway.

8.3 The Agent shall be entitled to obtain information from the debt register (Sw. *skuldbok*) kept by the CSD in respect of the Bonds. For the purpose of carrying out any administrative procedure that arises out of these Terms and Conditions, the Paying Agent shall in accordance with applicable law be entitled to obtain information from the debt register kept by the CSD in respect of the Bonds.

8.4 The Agent and the Paying Agent may use the information referred to in Clause 8.3 only for the purposes of carrying out their duties and exercising their rights in accordance with these Terms and Conditions and shall not disclose such information to any Holder or third party unless necessary for such purposes.

9. RIGHT TO ACT ON BEHALF OF A HOLDER

9.1 If any Person other than a Holder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney (or, if applicable, a coherent chain of powers of attorney), a certificate from the authorised nominee or other sufficient proof of authorisation for such Person.

9.2 A Holder may issue one or several powers of attorney to third parties to represent it in relation to some or all of the Bonds held by it. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Holder and may further delegate its right to represent the Holder by way of a further power of attorney.

9.3 The Trustee shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 9.1 and 9.2 and may assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

10. PAYMENTS IN RESPECT OF THE BONDS

- 10.1 The Issuer will unconditionally make available to or to the order of the Agent and/or the Paying Agent all amounts due on each Payment Date pursuant to the terms of these Terms and Conditions at such times and to such accounts as specified by the Agent and/or the Paying Agent in advance of each Payment Date or when other payments are due and payable pursuant to these Terms and Conditions.
- 10.2 Payment constituting good discharge of the Issuer's payment obligations to the Holders under these Terms and Conditions will be deemed to have been made to each Holder once the amount has been credited to the bank holding the bank account nominated by the Holder in connection with its Securities Account in the CSD. If the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Holder in question.
- 10.3 If a Payment Date or a date for other payments to the Holders pursuant to these Terms and Conditions falls on a day on which either of the relevant CSD settlement system or the relevant currency settlement system for the Bonds are not open, the payment shall be made on the first following possible day on which both of the said systems are open, unless any provision to the contrary have been set out for such payment in the relevant these Terms and Conditions.
- 10.4 If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue in accordance with Clause 11.4 during such postponement.
- 10.5 If payment or repayment is made in accordance with this Clause 10, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a Person not entitled to receive such amount, unless the Issuer or the CSD (as applicable) was aware that the payment was being made to a Person not entitled to receive such amount.
- 10.6 The Issuer shall pay any stamp duty and other public fees accruing in connection with the Initial Bond Issue or a Subsequent Bond Issue, but not in respect of trading in the secondary market (except to the extent required by applicable law), and shall deduct at source any applicable withholding tax payable pursuant to law. The Issuer shall not be liable to reimburse any stamp duty or public fee or to gross-up any payments under these Terms and Conditions by virtue of any withholding tax, public levy or similar.
- 10.7 Notwithstanding anything to the contrary in these Terms and Conditions, the Bonds shall be subject to, and any payment made in relation thereto shall be made in accordance with, the rules and procedures of the CSD.
- 10.8 All amounts payable under these Terms and Conditions shall be payable in the denomination of the Bonds set out in Clause 2.1. If, however, the denomination differs from the currency of the bank account connected to the Holder's account in the CSD, any cash settlement may be exchanged and credited to this bank account.
- 10.9 Any specific payment instructions, including foreign exchange bank account details, to be connected to the Holder's account in the CSD must be provided by the relevant Holder to the

Paying Agent (either directly or through its Account Operator in the CSD) within five (5) Business Days prior to a Payment Date. Depending on any currency exchange settlement agreements between each Holder's bank and the Paying Agent, and opening hours of the receiving bank, cash settlement may be delayed, and payment shall be deemed to have been made once the cash settlement has taken place, provided, however, that no default interest or other penalty shall accrue for the account of the Issuer for such delay.

11. INTEREST

- 11.1 The Bonds will bear Interest at the Interest Rate applied to the Outstanding Nominal Amount from (and including) the First Issue Date up to (but excluding) the relevant Redemption Date. Any Subsequent Bond will, however, carry Interest at the Interest Rate from (and including) the Interest Payment Date falling immediately prior to their issuance up to (but excluding) the relevant Redemption Date.
- 11.2 Interest accrues during an Interest Period. Payment of Interest in respect of the Bonds shall be made quarterly in arrears to the Holders on each Interest Payment Date for the preceding Interest Period.
- 11.3 Interest shall be calculated on the basis of the actual number of days in the Interest Period in respect of which payment is being made divided by 360 (actual/360-days basis).
- 11.4 If the Issuer fails to pay any amount payable by it under these Terms and Conditions on its due date, default interest shall accrue on the overdue amount from (and including) the due date up to (but excluding) the date of actual payment at a rate which is two hundred (200) basis points higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Trustee or the CSD, in which case the Interest Rate shall apply instead.

12. REDEMPTION AND REPURCHASE OF THE BONDS

12.1 Redemption at maturity

The Issuer shall redeem all, but not only some, of the Bonds in full on the Final Redemption Date (or, to the extent such day is not a CSD Business Day and if permitted under the CSD's applicable regulations, on the Business Day following from an application of the Business Day Convention, and otherwise on the first following CSD Business Day) with an amount per Bond equal to the Outstanding Nominal Amount together with accrued but unpaid Interest.

12.2 The Group's purchase of Bonds

The Issuer and any other Group Company may, subject to applicable law, at any time and at any price purchase Bonds. Bonds held by the Issuer or any Group Company may at the Issuer's or such Group Company's discretion be retained or sold but not cancelled, except in connection with a redemption of the Bonds in full.

12.3 Voluntary prepayment

- (a) The Issuer may at one occasion per each calendar year (without carry-back or carry-forward), make partial repayments of Bonds in an amount corresponding to a

maximum of five (5) per cent of the aggregate Nominal Amount as of the First Issue Date. Any such partial repayment shall reduce the Outstanding Nominal Amount of each Bond *pro rata* in accordance with the procedures of the CSD. The Bonds shall be redeemed at the Call Option Amount for the relevant period, but shall for the period until the First Call Date be the price set out in paragraph (b) of the definition of “Call Option Amount”, in each case together with accrued but unpaid interest. A partial repayment shall be made by the Issuer giving not less than ten (10) Business Days’ notice and the repayment shall be made on the next Interest Payment Date following such notice.

- (b) Partial repayment shall be made by the Issuer giving not less than ten (10) Business Days’ notice to the Holders and the repayment shall be made on the immediately following Interest Payment Date.

12.4 **Early voluntary redemption by the Issuer (call option)**

- (a) The Issuer may redeem all, but not only some, of the Bonds in full on any Business Day falling after the First Issue Date but before the Final Redemption Date, at the Call Option Amount (as applicable) together with accrued but unpaid Interest.
- (b) Redemption in accordance with paragraph (a) above shall be made by the Issuer giving not less than fifteen (15) Business Days’ notice to the Holders and the Trustee. Any such notice shall state the Redemption Date and the relevant Record Date and is irrevocable but may, at the Issuer’s discretion, contain one or more conditions precedent. Upon expiry of such notice and the fulfilment of the conditions precedent (if any), the Issuer is bound to redeem the Bonds in full at the applicable amounts.

12.5 **Equity Claw Back**

- (a) The Issuer may at one occasion, in connection with an Equity Listing Event, repay up to thirty (30) per cent. of the total Outstanding Nominal Amount, in which case all outstanding Bonds shall be partially repaid by way of reducing the Nominal Amount of each Bond *pro rata* in accordance with the procedures of the CSD. The repayment must occur on an Interest Payment Date within 180 days after such Equity Listing Event and be made with funds in an aggregate amount not exceeding the cash proceeds received by the Issuer as a result of such Equity Listing Event (net of fees, charges and commissions actually incurred in connection with such offering and net of taxes paid or payable as a result of such offering). The repayment per Bond shall equal the repaid percentage of the Outstanding Nominal Amount plus (i) a premium on the repaid amount as set forth in the Call Option Amount for the relevant period and, shall up until the First Call Date be the price set out in paragraph (b) of the definition of Call Option Amount and (ii) accrued but unpaid interest on the repaid amount.
- (b) Partial repayment in accordance with paragraph (a) above shall be made by the Issuer giving not less than twenty (20) Business Days’ notice and the repayment shall be made on the immediately following Interest Payment Date.

12.6 **Early redemption due to illegality (call option)**

- (a) The Issuer may redeem all, but not some only, of the outstanding Bonds at an amount per Bond equal to the Nominal Amount together with accrued but unpaid Interest on a Redemption Date determined by the Issuer if it is or becomes unlawful for the Issuer to perform its obligations under the Finance Documents.
- (b) The applicability of paragraph (a) above shall be supported by a legal opinion issued by a reputable law firm.
- (c) The Issuer may give notice of redemption pursuant to paragraph (a) above no later than twenty (20) Business Days after having received actual knowledge of any event specified therein (after which time period such right shall lapse). The notice from the Issuer is irrevocable, shall specify the Redemption Date and also the Record Date on which a person shall be registered as a Holder to receive the amounts due on such Redemption Date. The Issuer is bound to redeem the Bonds in full at the applicable amount on the specified Redemption Date.

12.7 **Mandatory repurchase due to a Change of Control Event or a Delisting Event (put option)**

- (a) Upon a Change of Control Event or a Delisting Event occurring, each Holder shall have the right to request that all, or only some, of its Bonds are repurchased (whereby the Issuer shall have the obligation to repurchase such Bonds) at a price per Bond equal to one hundred one (101.00) per cent. of the Outstanding Nominal Amount together with accrued but unpaid Interest, during a period of sixty (60) calendar days following a notice from the Issuer of the relevant event pursuant to paragraph (a)(v) of Clause 14.13 (*Information undertakings*). The sixty (60) calendar days' period may not start earlier than upon the occurrence of the Change of Control Event or the Delisting Event (as applicable).
- (b) The notice from the Issuer pursuant to paragraph (a)(v) of Clause 14.13 (*Information undertakings*) shall specify the repurchase date and include instructions about the actions that a Holder needs to take if it wants Bonds held by it to be repurchased. If a Holder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer, or a Person designated by the Issuer, shall repurchase the relevant Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to paragraph (a)(v) of Clause 14.13 (*Information undertakings*). The repurchase date must fall no later than twenty (20) Business Days after the end of the period referred to in paragraph (a) above.
- (c) The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Bonds. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 12.7, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 12.7 by virtue of the conflict.
- (d) Any Bonds repurchased by the Issuer pursuant to this Clause 12.7 may at the Issuer's discretion be retained, sold or cancelled in accordance with Clause 12.2.

12.8 **Mandatory redemption due to failure to fulfil the Initial Conditions Precedent**

- (a) If the Initial Conditions Precedent have not been fulfilled within sixty (60) Business Days of the First Issue Date, the Issuer shall redeem all Bonds at a price equal to one hundred (100.00) per cent, of the Nominal Amount together with any accrued but unpaid interest.
- (b) The redemption of the Bonds shall:
 - (i) be executed on the first following Interest Payment Date (taking into account the rules and regulations of the CSD); and
 - (ii) be made by the Issuer giving not less than ten (10) Business Days' notice to the Holders and the Trustee, where such notice shall state the relevant Interest Payment Date on which the redemption shall be made, the redemption amount and the relevant Record Date.
- (c) The Trustee shall be authorised to apply the funds standing to the credit of the Escrow Account to redeem the Bonds on behalf of the Issuer. If such amount is insufficient to redeem the Bonds in full, the deficit shall be paid by the Issuer.

12.9 **Mandatory redemption due to failure to fulfil the additional Conditions Precedent**

- (a) If the Net Proceeds have not been disbursed from the Escrow Account within ninety (90) Business Days from the First Issue Date or, if a longer period is required solely for the purpose of obtaining relevant competition clearances for the Acquisition, within one hundred and eighty (180) Business Days from the First Issue Date, the Issuer shall redeem all Bonds at a price equal to one hundred (100.00) per cent, of the Nominal Amount together with any accrued but unpaid interest.
- (b) The redemption of the Bonds shall:
 - (i) be executed on the first following Interest Payment Date (taking into account the rules and regulations of the CSD); and
 - (ii) be made by the Issuer giving not less than ten (10) Business Days' notice to the Holders and the Trustee, where such notice shall state the relevant Interest Payment Date on which the redemption shall be made, the redemption amount and the relevant Record Date.
- (c) The Trustee shall be authorised to apply the funds standing to the credit of the Escrow Account to redeem the Bonds on behalf of the Issuer. If such amount is insufficient to redeem the Bonds in full, the deficit shall be paid by the Issuer.

13. **INCURRENCE TEST**

13.1 **Application of the Incurrence Test**

The Incurrence Test shall be made in connection with the incurrence of Permitted Debt or the making of a Restricted Payment which requires that the Incurrence Test is met and shall be reported in a Compliance Certificate.

13.2 Incurrence Test

The Incurrence Test is met if:

- (a) the Leverage Ratio (in each case calculated in accordance with Clause 13.3 (*Calculation of the Incurrence Test*)) is less than:
 - (i) 3.25:1.00 from and including the First Issue Date until (and including) the First Call Date; or
 - (ii) 2.75:1.00 from (but excluding) the First Call Date until (and including) the Final Redemption Date; and
- (b) no Event of Default is continuing or would result from:
 - (i) the expiry of a grace period, giving of notice, making of any determination or any combination of any of the foregoing; or
 - (ii) the incurrence of Financial Indebtedness or making of Restricted Payment (as applicable).

13.3 Calculation of the Incurrence Test

- (a) The calculation the Leverage Ratio shall be made as per a testing date (the “**Testing Date**”), determined by the Issuer, falling no more than three (3) months prior to the incurrence of Permitted Debt or the making of a Restricted Payment that requires the Incurrence Test to be met.
- (b) Net Interest Bearing Debt shall be measured on the Testing Date so determined, calculated *pro forma* including the new Financial Indebtedness provided that such Financial Indebtedness is an interest bearing obligation (however, any cash balance resulting from the incurrence of such new Financial Indebtedness shall not reduce Net Interest Bearing Debt).
- (c) The figures for EBITDA for the Reference Period ending on the last day of the period covered by the most recent Financial Report (including when necessary, financial statements published before the First Issue Date) shall be used for the Incurrence Test, but adjusted so that (without double counting):
 - (i) the earnings before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as EBITDA) of entities acquired by the Group during the Reference Period, or after the end of the Reference Period but before the relevant Testing Date, shall be included (as applicable), *pro forma*, for the entire Reference Period, taking into account any cost savings, synergies, integration and transaction costs reasonably projected by the Issuer, provided that:
 - (A) such projected cost savings and synergies shall be included without double counting cost savings and synergies already realised during such Reference Period; and
 - (B) such projected cost savings are subject to the restrictions referred to in paragraph (d) of the definition of “EBITDA”,

where, so long as such projected cost savings and synergies are projected by the Issuer to be realisable within twelve (12) months from the date of acquisition, such cost savings and synergies shall be assumed to be realisable at any time during such twelve (12) months period;

- (ii) the earnings before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as EBITDA) of any entity disposed of during the Reference Period, or after the end of the Reference Period but before the relevant Testing Date, shall be excluded, *pro forma*, for the entire Reference Period; and
- (iii) the earnings before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as EBITDA) of any entity to be acquired with the proceeds from new Financial Indebtedness shall be included, *pro forma*, for the entire Reference Period, taking into account any cost savings, synergies, integration and transaction costs reasonably projected by the Issuer, subject to the limitations in paragraphs (c)(i)-(ii) above.

14. SPECIAL UNDERTAKINGS

So long as any Bond remains outstanding, the Issuer undertakes to comply with the special undertakings set forth in this Clause 14.

14.1 Distributions

- (a) The Issuer shall not, and shall procure that none of its Subsidiaries will:
 - (i) pay any dividend on its shares (other than to the Issuer or a wholly-owned direct or indirect Subsidiary of the Issuer and, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer, is made on a pro rata basis);
 - (ii) repurchase or redeem any of its own shares;
 - (iii) redeem or reduce its share capital or other restricted or unrestricted equity with repayment to shareholders;
 - (iv) repay any Shareholder Debt or pay capitalised or accrued interest thereunder; or
 - (v) make any other similar distribution or transfers of value to the direct or indirect shareholders of the Issuer, or any Affiliates of the Issuer (other than to the Issuer or a wholly-owned, direct or indirect, Subsidiary of the Issuer and, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer, is made on a *pro rata* basis),

the transactions referred to under paragraphs (i) to (v) being collectively and individually referred to as a “**Restricted Payment**”.

- (b) Notwithstanding paragraph (a) above, a Restricted Payment may be made by the Issuer if an Equity Listing Event has occurred and the Equity Claw Back has been utilised in full, provided that at the time of the Restricted Payment:

- (i) no Event of Default is outstanding or would occur as a result of such Restricted Payment;
- (ii) the Incurrence Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); and
- (iii) the aggregate amount of all Restricted Payments of the Group in any financial year (including the relevant Restricted Payment in question) does not exceed fifty (50) per cent of the Group's consolidated net income for the previous financial year.

14.2 **Listing of Bonds**

- (a) The Issuer shall use its reasonable endeavours to procure that the Bonds are listed on the Open Market of the Frankfurt Stock Exchange as soon as reasonably possibly after the First Issue Date and in any case within thirty (30) days of the First Issue Date and shall procure that the Bonds remain listed on such exchange until the Bonds have been redeemed in full.
- (b) The Issuer shall use its best efforts to ensure that:
 - (i) the Initial Bonds are listed at the corporate bond list of Nasdaq Stockholm or any other Regulated Market within twelve (12) months of the First Issue Date;
 - (ii) any Subsequent Bonds are listed on the relevant Regulated Market within sixty (60) days after the issuance of such Subsequent Bonds and with an intention to complete such listing within thirty (30) days after the issuance of such Subsequent Bonds (unless Subsequent Bonds are issued before the date falling twelve (12) months before the First Issue Date, in which case such Subsequent Bonds shall be listed within twelve (12) months after the First Issue Date); and
 - (iii) the Bonds, if admitted to trading on a Regulated Market continue being listed thereon for as long as any Bond is outstanding (however, taking into account the rules and regulations of the relevant Regulated Market and the CSD (as amended from time to time) preventing trading in the Bonds in close connection to the redemption of the Bonds).

14.3 **Nature of business**

The Issuer shall procure that no substantial change is made to the general nature of the business carried on by the Group as of the First Issue Date if such substantial change would have a Material Adverse Effect.

14.4 **Financial Indebtedness**

The Issuer shall not (and shall procure that no other Group Company will) incur, prolong, renew or extend any Financial Indebtedness, provided however that the Issuer and its Subsidiaries have a right to incur, prolong, renew or extend any Financial Indebtedness that constitutes Permitted Debt.

14.5 **Disposal of assets**

The Issuer shall not (and shall procure that no other Group Company will) sell or otherwise dispose of shares in any Group Company or of all or substantially all of its or any Subsidiary's assets (including but not limited to material intellectual property rights and pledged Group Companies) or operations to any person not being the Issuer or any of its wholly-owned Subsidiaries, unless the transaction is carried out at fair market value and on terms and conditions customary for such transaction and provided that (i) it in each case is permitted by the terms of any Security Document in respect of such assets and (ii) it does not have a Material Adverse Effect.

14.6 **Clean down period**

The Issuer shall procure that during each calendar year there shall be a period of five (5) consecutive days during which the amount outstanding under the Super Senior RCF, *less* Cash and Cash Equivalents of the Group, amounts to zero (0) or less. Not less than three (3) months shall elapse between two such periods. Compliance shall be confirmed in the Compliance Certificate issued together with each of the Group's annual audited consolidated financial statements.

14.7 **Negative Pledge**

The Issuer shall not (and shall procure that no other Group Company will) provide, prolong or renew any security over any of its/their assets (present or future), provided however that the Group Companies have a right to provide, prolong or renew any Permitted Security.

14.8 **Conditions Subsequent**

The Issuer shall procure that the Conditions Subsequent are complied with.

14.9 **Guarantors**

The Issuer shall procure that each Group Company that is required to become a Guarantor to comply with Clause 6.2 (*Guarantors*), enters into or accedes to a Guarantee Agreement as a Guarantor, that Transaction Security is granted over the shares in such Group Company and its assets in accordance with Clause 6.1 (*Transaction Security*) and that customary conditions precedent and legal opinions are delivered to the Trustee's satisfaction (acting reasonable) as soon as practically possible, but in any event no later than sixty (60) Business Days from the date such Compliance Certificate was (or were supposed to be) delivered.

14.10 **Dealings with related parties**

The Issuer shall (and shall procure that each other Group Company will) conduct all dealings with their direct and indirect shareholders (excluding the Issuer and any other Group Company) and/or any Affiliates of such direct and indirect shareholders on arm's length terms.

14.11 **Loans out**

The Issuer shall not (and shall procure that no other Group Company will) extend any loans in any form to any other party than (i) to other Group Companies or (ii) in the ordinary course of business.

14.12 **Compliance with laws and authorisations**

The Issuer shall procure that it and each of its Subsidiaries:

- (a) comply in all laws and regulations applicable from time to time; and
- (b) obtain, maintain and comply with, the terms and conditions of any authorisation, approval, license or other permit required for the business carried out by a Group Company,

in each case, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

14.13 **Information undertakings**

- (a) The Issuer shall:
 - (i) prepare and make available the annual audited consolidated financial statements of the Group (in English), including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, on its website not later than four (4) months after the expiry of each financial year;
 - (ii) prepare and make available the quarterly interim unaudited consolidated reports of the Group (in English), including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, on its website not later than two (2) months after the expiry of each relevant interim period;
 - (iii) issue a Compliance Certificate to the Trustee in connection with:
 - (A) the delivery of a Financial Report,
 - (B) the incurrence of Financial Indebtedness as set out in paragraph (i) of the definition of Permitted Debt; and
 - (C) the making of a Restricted Payment;
 - (iv) keep the latest version of the Terms and Conditions available on the website of the Group; and
 - (v) promptly notify the Trustee (and, as regards a Change of Control Event or a Delisting Event, the Holders) when the Issuer is or becomes aware of (A) the occurrence of a Change of Control Event or a Delisting Event, or (B) that an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing) constitute an Event of Default has occurred, and shall provide the Trustee with such further information as the Trustee may request (acting reasonably) following receipt of such notice.
- (b) From and including the listing of the Bonds on a Regulated Market, the Financial Reports shall be prepared in accordance with IFRS and made available in accordance with the rules and regulations of the relevant Regulated Market (as amended from time to time) and the Swedish Securities Market Act (Sw. *lag (2007:528) om värdepappersmarknaden*) (if applicable).

- (c) Subject to and in accordance with applicable accounting regulations and practices, each consolidated Financial Report shall include a *pro forma* overview of the Group's leases and EBITDA calculated in accordance with the Accounting Principles in force prior to IFRS 16 (Leases).
- (d) The Issuer shall notify the Trustee of any transaction referred to in Clause 14.5 (*Disposal of assets*) and shall, upon request by the Trustee, provide the Trustee with (i) any information relating to the transaction which the Trustee deems necessary (acting reasonably) and (ii) a determination from the Issuer which states whether the transaction is carried out at fair market value and on terms and conditions customary for such transaction or not and whether it has a Material Adverse Effect or not.

14.14 **Presentations**

Once every financial quarter and at reasonable notice, at least two senior officers of the Issuer must give a presentation by telephone about the ongoing business and financial performance of the Issuer and the Group.

14.15 **Bank Accounts**

The Issuer shall not (and shall procure that no other Group Company will) change a designated bank account for collection of membership dues held by the Issuer or a Guarantor to a bank account held by a Group Company which is not the Issuer or a Guarantor.

14.16 **Holmes Place Equity Injection**

In the event that the Issuer completes an acquisition of Holmes Place within twelve (12) months of the First Issue Date, and such acquisition is financed in part by proceeds from a Subsequent Bond Issue, no less than EUR 10,000,000 of the total consideration payable for Holmes Place shall comprise of an equity contribution, in the form of share capital, an unconditional shareholder contribution or Shareholder Debt, from the Sponsor and/or any of its direct or indirect Subsidiaries.

14.17 **Trustee Agreement**

14.18 The Issuer shall, in accordance with the Trustee Agreement:

- (a) pay fees to the Trustee;
- (b) indemnify the Trustee for costs, losses and liabilities;
- (c) furnish to the Trustee all information reasonably requested by or otherwise required to be delivered to the Trustee; and
- (d) not act in a way which would give the Trustee a legal or contractual right to terminate the Trustee Agreement.

14.19 The Issuer and the Trustee shall not agree to amend any provisions of the Trustee Agreement without the prior consent of the Holders if the amendment would be detrimental to the interests of the Holders.

14.20 **CSD related undertakings**

The Issuer shall keep the Bonds affiliated with a CSD and comply with all CSD regulations applicable to the Issuer from time to time.

15. **TERMINATION OF THE BONDS**

15.1 Subject to the terms of the Intercreditor Agreement (if any), the Trustee is entitled to, and shall following a demand in writing from a Holder (or Holders) representing at least fifty (50) per cent. of the Adjusted Nominal Amount (such demand may only be validly made by a Person who is a Holder on the second Business Day following the day on which the demand is received by the Trustee and shall, if made by several Holders, be made by them jointly) or following an instruction or decision pursuant to Clause 15.6 or 15.7, on behalf of the Holders, terminate the Bonds and to declare all, but not only some, of the Bonds due for payment immediately or at such later date as the Trustee determines (such later date not falling later than twenty (20) Business Days from the date on which the Trustee made such declaration), if:

- (a) **Non-payment:** The Issuer or a Guarantor fails to pay an amount on the date it is due in accordance with the Finance Documents unless its failure to pay is caused by administrative or technical error and payment is made within five (5) Business Days of the due date;
- (b) **Other obligations:** A party (other than the Trustee) does not comply with its obligations under the Finance Documents, in any other way than as set out under paragraph (a) above, provided that the Issuer has not remedied the failure within twenty (20) Business Days from the earlier of (i) a request in writing by the Trustee to remedy such failure or (ii) from such party becoming aware of the non-compliance (if the failure or violation is not capable of being remedied, the Trustee may declare the Bonds due and payable without such prior written request);
- (c) **Cross-acceleration:** Any Financial Indebtedness of a Group Company is not paid when due, as extended by any originally applicable grace period, or is declared to be due and payable prior to its specified maturity as a result of an event of default (however described), provided that:
 - (i) no Event of Default will occur under this paragraph (c) if the aggregate amount of Financial Indebtedness that has fallen due is less than EUR 1,000,000; and
 - (ii) this paragraph (c) does not apply to any Financial Indebtedness owed to a Group Company;
- (d) **Insolvency:**
 - (i) Any Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties or illiquidity, commences negotiations with its creditors generally (except for the Holders) with a view to rescheduling its Financial Indebtedness; or

- (ii) a moratorium is declared in respect of the Financial Indebtedness of any Group Company;
- (e) **Insolvency proceedings:** Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within sixty (60) days of commencement or, if earlier, the date on which it is advertised, (ii) proceedings or petitions concerning a claim which is less than EUR 1,000,000, and (ii), in relation to Subsidiaries of the Issuer, solvent liquidations) in relation to:
 - (i) the suspension of payments, winding-up, dissolution, administration or reorganisation (Sw. *företagsrekonstruktion*) (by way of voluntary agreement, scheme of arrangement or otherwise) of any Group Company; and
 - (ii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Company or any of its assets or any analogous procedure or step is taken in any jurisdiction in respect of any Group Company;
- (f) **Mergers and demergers:** A decision is made that any Group Company shall be demerged or merged if such merger or demerger is likely to have a Material Adverse Effect, provided that:
 - (i) a merger subject to existing security between Subsidiaries only, provided that the merger does not materially adversely affect the effectiveness or enforceability of such existing security, shall not be an Event of Default;
 - (ii) a merger between the Issuer and a Subsidiary, where the Issuer is the surviving entity, shall not constitute an Event of Default;
 - (iii) a merger involving the Issuer, where the Issuer is not the surviving entity, shall always constitute an Event of Default; and
 - (iv) the Issuer may not be demerged;
- (g) **Creditors' process:** Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Group Company having an aggregate value of an amount equal to or exceeding EUR 1,000,000 and is not discharged within sixty (60) calendar days;
- (h) **Continuation of the business:** The Issuer or any other Group Company ceases to carry on its business if such discontinuation is likely to have a Material Adverse Effect.

15.2 The Trustee may not terminate the Bonds in accordance with Clause 15.1 by reference to a specific Event of Default if it is no longer continuing or if it has been decided, in accordance with these Terms and Conditions, to waive such Event of Default (temporarily or permanently). However, if a moratorium occurs, the ending of that moratorium will not prevent termination for payment prematurely on the ground mentioned under Clause 15.1.

- 15.3 If the right to terminate the Bonds is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of termination to be deemed to exist.
- 15.4 The Issuer is obliged to inform the Trustee immediately if any circumstance of the type specified in Clause 15.1 should occur. Should the Trustee not receive such information, the Trustee is entitled to assume that no such circumstance exists or can be expected to occur, provided that the Trustee does not have knowledge of such circumstance. The Trustee is under no obligations to make any investigations relating to the circumstances specified in Clause 15.1. The Issuer shall further, at the request of the Trustee, provide the Trustee with details of any circumstances referred to in Clause 15.1 and provide the Trustee with all documents that may be of significance for the application of this Clause 15.
- 15.5 The Issuer is only obliged to inform the Trustee according to Clause 15.4 if informing the Trustee would not conflict with any statute or the Issuer's registration contract with the relevant Regulated Market. If such a conflict would exist pursuant to the listing contract with the relevant Regulated Market or otherwise, the Issuer shall however be obliged to either seek the approval from the relevant Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Trustee, in order to be able to timely inform the Trustee according to Clause 15.4.
- 15.6 If the Trustee has been notified by the Issuer or has otherwise received actual knowledge that there is a default under the Finance Documents according to Clause 15.1, the Trustee shall (i) notify, within five (5) Business Days of the day of notification or actual knowledge, the Holders of the default and (ii) decide, within twenty (20) Business Days of the day of notification or actual knowledge, if the Bonds shall be declared terminated. If the Trustee has decided not to terminate the Bonds, the Trustee shall, at the earliest possible date, notify the Holders that there exists a right of termination and obtain instructions from the Holders according to the provisions in Clause 17 (*Decisions by Holders*). If the Holders vote in favour of termination and instruct the Trustee to terminate the Bonds, the Trustee shall promptly declare the Bonds terminated. However, if the cause for termination according to the Trustee's appraisal has ceased before the termination, the Trustee shall not terminate the Bonds. The Trustee shall in such case, at the earliest possible date, notify the Holders that the cause for termination has ceased. The Trustee shall always be entitled to take the time necessary to consider whether an occurred event constitutes an Event of Default.
- 15.7 If the Holders, without any prior initiative to decision from the Trustee or the Issuer, have made a decision regarding termination in accordance with Clause 17 (*Decisions by Holders*), the Trustee shall promptly declare the Bonds terminated. The Trustee is however not liable to take action if the Trustee considers cause for termination not to be at hand, unless the instructing Holders agree in writing to indemnify and hold the Trustee harmless from any loss or liability and, if requested by the Trustee in its discretion, grant sufficient security for such indemnity.
- 15.8 If the Bonds are declared due and payable in accordance with the provisions in this Clause 15, the Trustee shall take every reasonable measure necessary to recover the amounts outstanding under the Bonds.

15.9 For the avoidance of doubt, the Bonds cannot be terminated and become due for payment prematurely according to this Clause 15 without relevant decision by the Trustee or following instructions from the Holders' pursuant to Clause 17 (*Decisions by Holders*).

15.10 If the Bonds are declared due and payable in accordance with this Clause 15, the Issuer shall redeem all Bonds with an amount per Bond equal to the applicable Call Option Amount for the relevant period (plus accrued but unpaid interest), and shall before the First Call Date be the price set out in paragraph (a) of the Call Option Amount definition (plus accrued but unpaid interest).

16. DISTRIBUTION OF PROCEEDS

16.1 If the Bonds have been declared due and payable in accordance with Clause 15 (*Termination of the Bonds*):

- (a) if the Intercreditor Agreement has been entered into, all payments by the Issuer or the Guarantors (as applicable) relating to the Bonds and any proceeds received from an enforcement of the Transaction Security shall be distributed in accordance with the Intercreditor Agreement; and
- (b) if the Intercreditor Agreement has not been entered into, all payments by the Issuer relating to the Bonds and any proceeds received from an enforcement of the Transaction Security shall be distributed in the following order of priority, in accordance with the instructions of the Trustee:
 - (i) *first*, in or towards payment *pro rata* of amounts owing to the Trustee under the Finance Documents, including all costs and indemnities relating to the acceleration of the Bonds, the enforcement of the Transaction Security or the Guarantees or the protection of the Holders' rights under the Finance Documents;
 - (ii) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest under the Bonds (Interest due on an earlier Interest Payment Date to be paid before any Interest due on a later Interest Payment Date);
 - (iii) *thirdly*, in or towards payment *pro rata* of any unpaid principal under the Bonds; and
 - (iv) *fourthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents.

Any excess funds after the application of proceeds in accordance with paragraphs (i) to (iv) above shall be paid to the Issuer or the Guarantors (as applicable). The application of proceeds in accordance with paragraphs (i) to (iv) above shall, however, not restrict a Holders' Meeting or a Written Procedure from resolving that accrued Interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.

16.2 If a Holder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 16.1, such Holder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 16.1.

16.3 If the Issuer or the Trustee shall make any payment under this Clause 16, the Issuer or the Trustee, as applicable, shall notify the Holders of any such payment at least fifteen (15) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause **Error! Reference source not found.** shall apply.

17. DECISIONS BY HOLDERS

17.1 A request by the Trustee for a decision by the Holders on a matter relating to the Finance Documents shall (at the option of the Trustee) be dealt with at a Holders' Meeting or by way of a Written Procedure.

17.2 Any request from the Issuer or a Holder (or Holders) representing at least ten (10.00) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a Person who is a Holder on the Business Day immediately following the day on which the request is received by the Trustee and shall, if made by several Holders, be made by them jointly) for a decision by the Holders on a matter relating to the Finance Documents shall be directed to the Trustee and dealt with at a Holders' Meeting or by way of a Written Procedure, as determined by the Trustee. The Person requesting the decision may suggest the form for decision making, but if it is in the Trustee's opinion more appropriate that a matter is dealt with at a Holders' Meeting than by way of a Written Procedure, it shall be dealt with at a Holders' Meeting.

17.3 The Trustee may refrain from convening a Holders' Meeting or instigating a Written Procedure if:

- (a) the suggested decision must be approved by any Person in addition to the Holders and such Person has informed the Trustee that an approval will not be given; or
- (b) the suggested decision is not in accordance with applicable laws.

17.4 Only a Person who is, or who has been provided with a power of attorney or other proof of authorisation pursuant to Clause 9 (*Right to act on behalf of a Holder*) from a Person who is, registered as a Holder:

- (a) on the Record Date prior to the date of the Holders' Meeting, in respect of a Holders' Meeting, or
- (b) on the Business Day specified in the communication pursuant to Clause 19.3, in respect of a Written Procedure,

may exercise voting rights as a Holder at such Holders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Nominal Amount.

17.5 The following matters shall require consent of Holders representing at least two thirds (2/3) of the Adjusted Nominal Amount for which Holders are voting at a Holders' Meeting or for which Holders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 19.3:

- (a) waive a breach of or amend an undertaking set out in Clause 12.8 (*Special undertakings*);

- (b) a release of the Transaction Security or the Guarantees in whole or in part, except in accordance with the terms of the Security Documents, Guarantees and the Intercreditor Agreement (if any);
 - (c) a mandatory exchange of Bonds for other securities;
 - (d) reduce the principal amount, Interest Rate or Interest which shall be paid by the Issuer;
 - (e) amend any payment day for principal or Interest or waive any breach of a payment undertaking; or
 - (f) amend the provisions in this Clause 17.5 or in Clause 17.6.
- 17.6 Any matter not covered by Clause 17.5 shall require the consent of Holders representing more than fifty (50.00) per cent. of the Adjusted Nominal Amount for which Holders are voting at a Holders' Meeting or for which Holders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 19.3. This includes, but is not limited to, any amendment to or waiver of the terms of any Finance Documents that does not require a higher majority (other than an amendment permitted pursuant to paragraph (a), (b) or (c) of Clause 20.1), or a termination of the Bonds or the enforcement of the Transaction Security or the Guarantees in whole or in part.
- 17.7 If the number of votes or replies are equal, the opinion which is most beneficial for the Issuer, according to the chairman at a Holders' Meeting or the Trustee in a Written Procedure, will prevail.
- 17.8 Quorum at a Holders' Meeting or in respect of a Written Procedure only exists if a Holder (or Holders) representing at least twenty (20.00) per cent. of the Adjusted Nominal Amount:
- (a) if at a Holders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
 - (b) if in respect of a Written Procedure, reply to the request.
- 17.9 If a quorum does not exist at a Holders' Meeting or in respect of a Written Procedure, the Trustee or the Issuer shall convene a second Holders' Meeting (in accordance with Clause 18.1) or initiate a second Written Procedure (in accordance with Clause 19.1), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Holders' consent. The quorum requirement in Clause 17.8 shall not apply to such second Holders' Meeting or Written Procedure.
- 17.10 Any decision which extends or increases the obligations of the Issuer or the Trustee, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Trustee, under the Finance Documents shall be subject to the Issuer's or the Trustee's consent, as appropriate.
- 17.11 A Holder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- 17.12 The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder for or as inducement to any consent under the Finance Documents, unless such consideration is offered to all Holders that consent at the relevant Holders'

Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.

- 17.13 A matter decided at a duly convened and held Holders' Meeting or by way of Written Procedure is binding on all Holders, irrespective of them being present or represented at the Holders' Meeting or responding in the Written Procedure. The Holders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Holders.
- 17.14 All costs and expenses incurred by the Issuer or the Trustee for the purpose of convening a Holders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Trustee, shall be paid by the Issuer.
- 17.15 If a decision shall be taken by the Holders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Trustee provide the Trustee with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) their Affiliates, irrespective of whether such Person is directly registered as owner of such Bonds. The Trustee shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate of a Group Company.
- 17.16 Information about decisions taken at a Holders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Holders and published on the websites of the Issuer and the Trustee, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Holders' Meeting or Written Procedure shall at the request of a Holder be sent to it by the Issuer or the Trustee, as applicable.

18. HOLDERS' MEETING

- 18.1 The Trustee shall convene a Holders' Meeting by sending a notice thereof to each Holder no later than five (5) Business Days after receipt of a request from the Issuer or the Holder(s) (or such later date as may be necessary for technical or administrative reasons). If the Holder's Meeting has been requested by the Holder(s), the Trustee shall send a copy of the notice to the Issuer.
- 18.2 Should the Issuer want to replace the Trustee, it may convene a Holders' Meeting in accordance with Clause 18.1 with a copy to the Trustee. After a request from the Holders pursuant to paragraph (c) of Clause 21.4 (*Replacement of the Trustee*), the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Holders' Meeting in accordance with Clause 18.1.
- 18.3 The notice pursuant to Clause 18.1 shall include:
- (a) time for the meeting;
 - (b) place for the meeting;
 - (c) agenda for the meeting (including each request for a decision by the Holders); and
 - (d) a form of power of attorney.

Only matters that have been included in the notice may be resolved upon at the Holders' Meeting. Should prior notification by the Holders be required in order to attend the Holders' Meeting, such requirement shall be included in the notice.

- 18.4 The Holders' Meeting shall be held no earlier than ten (10) Business Days and no later than twenty (20) Business Days from the notice.
- 18.5 If the Trustee, in breach of these Terms and Conditions, has not convened a Holders' Meeting within five (5) Business Days after having received such notice, the requesting Person may convene the Holders' Meeting itself. If the requesting Person is a Holder, the Issuer shall upon request from such Holder provide the Holder with necessary information from the register kept by the CSD and, if no Person to open the Holders' Meeting has been appointed by the Trustee, the meeting shall be opened by a Person appointed by the requesting Person.
- 18.6 At a Holders' Meeting, the Issuer, the Holders (or the Holders' representatives/proxies) and the Trustee may attend along with each of their representatives, counsels and assistants. Further, the directors of the board, the managing director and other officials of the Issuer and the Issuer's auditors may attend the Holders' Meeting. The Holders' Meeting may decide that further individuals may attend. If a representative/proxy shall attend the Holders' Meeting instead of the Holder, the representative/proxy shall present a duly executed proxy or other document establishing its authority to represent the Holder.
- 18.7 Without amending or varying these Terms and Conditions, the Trustee may prescribe such further regulations regarding the convening and holding of a Holders' Meeting as the Trustee may deem appropriate. Such regulations may include a possibility for Holders to vote without attending the meeting in person.

19. WRITTEN PROCEDURE

- 19.1 The Trustee shall instigate a Written Procedure no later than five (5) Business Days after receipt of a request from the Issuer or the Holder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such Person who is registered as a Holder on the Business Day prior to the date on which the communication is sent. If the Written Procedure has been requested by the Holder(s), the Trustee shall send a copy of the communication to the Issuer.
- 19.2 Should the Issuer want to replace the Trustee, it may send a communication in accordance with Clause 19.1 to each Holder with a copy to the Trustee.
- 19.3 A communication pursuant to Clause 19.1 shall include (a) each request for a decision by the Holders, (b) a description of the reasons for each request, (c) a specification of the Business Day on which a Person must be registered as a Holder in order to be entitled to exercise voting rights (such Business Day not to fall earlier than the effective date of the communication pursuant to Clause 19.1), (d) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (e) the stipulated time period within which the Holder must reply to the request (such time period to last at least ten (10) Business Days but not more than twenty (20) Business Days from the communication pursuant to Clause 19.1). If the

voting shall be made electronically, instructions for such voting shall be included in the communication.

- 19.4 If the Trustee, in breach of these Terms and Conditions, has not instigated a Written Procedure within five (5) Business Days after having received such notice, the requesting Person may instigate a Written Procedure itself. If the requesting Person is a Holder, the Issuer shall upon request from such Holder provide the Holder with necessary information from the register kept by the CSD.
- 19.5 When the requisite majority consents of the Adjusted Nominal Amount pursuant to Clauses 17.5 and 17.6 have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 17.5 or 17.6, as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

20. AMENDMENTS AND WAIVERS

- 20.1 Subject to the terms of the Intercreditor Agreement, the Issuer and the Trustee (acting on behalf of the Holders) may agree to amend the Finance Documents or waive any provision in the Finance Documents, provided that:
- (a) such amendment or waiver is not detrimental to the interest of the Holders, or is made solely for the purpose of rectifying obvious errors and mistakes;
 - (b) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority;
 - (c) such amendment or waiver is necessary for the purpose of listing the Bonds on a Regulated Market provided such amendment or waiver does not materially adversely affect the rights of the Holders; or
 - (d) such amendment or waiver has been duly approved by the Holders in accordance with Clause 17 (*Decisions by Holders*).
- 20.2 The consent of the Holders is not necessary to approve the particular form of any amendment or waiver to the Finance Documents. It is sufficient if such consent approves the substance of the amendment or waiver.
- 20.3 The Trustee shall promptly notify the Holders of any amendments or waivers made in accordance with Clause 20.1, setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to the Finance Documents are available on the websites of the Issuer and the Trustee. The Issuer shall ensure that any amendments to the Finance Documents are duly registered with the CSD and each other relevant organisation or authority.
- 20.4 An amendment or waiver to the Finance Documents shall take effect on the date determined by the Holders Meeting, in the Written Procedure or by the Trustee, as the case may be.

21. APPOINTMENT AND REPLACEMENT OF THE TRUSTEE

21.1 Appointment of Trustee

- (a) By subscribing for Bonds, each initial Holder:
 - (i) appoints the Trustee to act as its agent and security agent in all matters relating to the Bonds and the Finance Documents, and authorises the Trustee to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Holder, including the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*), or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer including, for the avoidance of doubt, any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security or a Guarantee; and
 - (ii) confirms the appointment under the Intercreditor Agreement (if any) of the Security Agent to act as its agent in all matters relating to the Transaction Security, the Security Documents, the Guarantees and the Guarantee Agreement, including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security or a Guarantee and acknowledges and agrees that the rights, obligations, role of and limitations of liability for the Security Agent is further regulated in the Intercreditor Agreement (if any).
- (b) By acquiring Bonds, each subsequent Holder confirms the appointment and authorisation for the Trustee and the Security Agent to act on its behalf, as set forth in paragraph (a) above.
- (c) Each Holder shall immediately upon request by the Trustee provide the Trustee with any such documents, including a written power of attorney (in form and substance satisfactory to the Trustee), as the Trustee deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Trustee is under no obligation to represent a Holder which does not comply with such request.
- (d) The Issuer shall promptly upon request provide the Trustee with any documents and other assistance (in form and substance satisfactory to the Trustee), that the Trustee deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- (e) The Trustee is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Trustee's obligations as agent and security agent under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- (f) The Trustee may act as agent and/or security agent for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

21.2 Duties of the Trustee

- (a) The Trustee shall represent the Holders in accordance with the Finance Documents, including, *inter alia*, holding the Transaction Security and the Guarantees pursuant to the Security Documents and the Guarantee Agreement on behalf of the Secured Parties and, where relevant, enforcing the Transaction Security or a Guarantee on behalf of the Holders. However, the Trustee is not responsible for the contents, execution, legal validity or enforceability of the Finance Documents. The Trustee shall keep the latest version of these Terms and Conditions (including any document amending these Terms and Conditions) available on the website of the Trustee.
- (b) The Trustee is not obliged to actively assess or monitor (i) the financial condition of the Issuer or any Group Company, (ii) the compliance by the Issuer of the Finance Documents (unless expressly set out in the Finance Documents) or (iii) whether an Event of Default (or any event that may lead to an Event of Default) has occurred or not. Until it has actual knowledge to the contrary, the Trustee is entitled to assume that no Event of Default has occurred.
- (c) The Trustee may assume that any information, documentation and evidence delivered to it is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Trustee does not have to verify or assess the contents of any such information, documentation or evidence. The Trustee does not review any information, documents and evidence from a legal or commercial perspective of the Holders.
- (d) The Trustee shall upon request by a Holder disclose the identity of any other Holder who has consented to the Trustee in doing so.
- (e) When acting in accordance with the Finance Documents, the Trustee is always acting with binding effect on behalf of the Holders. The Trustee shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- (f) The Trustee is entitled to delegate its duties to other professional parties, but the Trustee shall remain liable for the actions of such parties under the Finance Documents.
- (g) The Trustee shall treat all Holders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Holders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other Person, other than as explicitly stated in the Finance Documents.
- (h) The Trustee shall be entitled to disclose to the Holders any event or circumstance directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Trustee may if it considers it to be beneficial to the interests of the Holders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.
- (i) The Trustee is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Trustee pay all costs for external experts engaged (i) after the occurrence of an Event of Default, (ii) for the

purpose of investigating or considering an event which the Trustee reasonably believes is or may lead to an Event of Default or a matter relating to the Issuer which the Trustee reasonably believes may be detrimental to the interests of the Holders under the Finance Documents or (iii) when the Trustee is to make a determination under the Finance Documents. Any compensation for damages or other recoveries received by the Trustee from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 16 (*Distribution of proceeds*).

- (j) The Trustee shall enter into agreements with the CSD, and comply with such agreement and the CSD regulations applicable to the Trustee, as may be necessary in order for the Trustee to carry out its duties under the Finance Documents.
- (k) The Agent may instruct the CSD to split the Bonds to a lower nominal amount in order to facilitate partial redemptions, restructuring of the Bonds or other situations.
- (l) Notwithstanding any other provision of the Finance Documents to the contrary, the Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (m) If in the Trustee's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Trustee) in complying with instructions of the Holders, or taking any action at its own initiative, will not be covered by the Issuer, the Trustee may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate security has been provided therefore) as it may reasonably require.
- (n) The Trustee shall give a notice to the Holders (a) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Trustee under the Finance Documents, or (b) if it refrains from acting for any reason described in paragraph (m) above.
- (o) The Trustee's duties under the Terms and Conditions are solely mechanical and administrative in nature and the Trustee only acts in accordance with the Terms and Conditions and upon instructions from the Holders, unless otherwise set out in the Terms and Conditions. In particular, the Trustee is not acting as an advisor (whether legal, financial or otherwise) to the Holders or any other person.

21.3 **Limited liability for the Trustee**

- (a) The Trustee will not be liable to the Holders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. The Trustee shall never be responsible for indirect loss.
- (b) The Trustee shall not be considered to have acted negligently if it has acted in accordance with advice from or opinions of reputable external experts engaged by the Trustee or if the Trustee has acted with reasonable care in a situation when the Trustee considers that it is detrimental to the interests of the Holders to delay the action in order to first obtain instructions from the Holders.

- (c) The Trustee shall not be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by the Trustee to the Holders, provided that the Trustee has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Trustee for that purpose.
- (d) The Trustee shall have no liability to the Holders for damage caused by the Trustee acting in accordance with instructions of the Holders given in accordance with Clause 17 (*Decisions by Holders*).
- (e) Any liability towards the Issuer which is incurred by the Trustee in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Holders under the Finance Documents.
- (f) The Trustee is not liable for information provided to the Holders by or on behalf of the Issuer or by any other person.

21.4 **Replacement of the Trustee**

- (a) Subject to paragraph (f) below, the Trustee may resign by giving notice to the Issuer and the Holders, in which case the Holders shall appoint a successor Trustee at a Holders' Meeting convened by the retiring Trustee or by way of Written Procedure initiated by the retiring Trustee.
- (b) Subject to paragraph (f) below, if the Trustee is insolvent or becomes subject to bankruptcy proceedings, the Trustee shall be deemed to resign as Trustee and the Issuer shall within ten (10) Business Days appoint a successor Trustee which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (c) A Holder (or Holders) representing at least ten (10.00) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Holder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Holders, be given by them jointly), require that a Holders' Meeting is held for the purpose of dismissing the Trustee and appointing a new Trustee. The Issuer may, at a Holders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Holders that the Trustee be dismissed and a new Trustee appointed.
- (d) If the Holders have not appointed a successor Trustee within ninety (90) calendar days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Trustee was dismissed through a decision by the Holders, the Issuer shall appoint a successor Trustee which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (e) The retiring Trustee shall, at its own cost, make available to the successor Trustee such documents and records and provide such assistance as the successor Trustee may reasonably request for the purposes of performing its functions as Trustee under the Finance Documents.

- (f) The Trustee's resignation or dismissal shall only take effect upon the appointment of a successor Trustee and acceptance by such successor Trustee of such appointment and the execution of all necessary documentation to effectively substitute the retiring Trustee.
- (g) Upon the appointment of a successor, the retiring Trustee shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Trustee. Its successor, the Issuer and each of the Holders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Trustee.
- (h) In the event that there is a change of the Trustee in accordance with this Clause 21.4, the Issuer shall execute such documents and take such actions as the new Trustee may reasonably require for the purpose of vesting in such new Trustee the rights, powers and obligation of the Trustee and releasing the retiring Trustee from its further obligations under the Finance Documents. Unless the Issuer and the new Trustee agrees otherwise, the new Trustee shall be entitled to the same fees and the same indemnities as the retiring Trustee.

22. APPOINTMENT AND REPLACEMENT OF THE PAYING AGENT

- 22.1 The Issuer appoints the Paying Agent to manage certain specified tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to and/or issued by the CSD and relating to the Bonds.
- 22.2 The Paying Agent may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Paying Agent at the same time as the old Paying Agent retires or is dismissed. If the Paying Agent is insolvent or becomes subject to bankruptcy proceedings, the Issuer shall immediately appoint a new Paying Agent, which shall replace the old Paying Agent as paying agent in accordance with these Terms and Conditions.
- 22.3 The Paying Agent will not be liable to the Holders for damage or loss caused by any action taken or omitted by it under or in connection with these Terms and Conditions, unless directly caused by its gross negligence or wilful misconduct. The Paying Agent shall never be responsible for indirect or consequential loss.

23. APPOINTMENT AND REPLACEMENT OF THE CSD

- 23.1 The Issuer has appointed the CSD to manage certain tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to the CSD.
- 23.2 The CSD may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has effectively appointed a replacement CSD that accedes as CSD at the same time as the old CSD retires or is dismissed and provided also that the replacement does not have a negative effect on any Holder or the listing of the Bonds listed on a Regulated Market.

24. NO DIRECT ACTIONS BY HOLDERS

24.1 A Holder may not take any steps whatsoever against the Issuer or a Subsidiary (including a Guarantor) or with respect to the Transaction Security to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer or another Group Company in relation to any of the liabilities of the Issuer or a Subsidiary (including a Guarantor) under the Finance Documents. Such steps may only be taken by the Trustee.

24.2 Clause 24.1 shall not apply if:

- (a) the Trustee has been instructed by the Holders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Holder to provide documents in accordance with paragraph (b) of Clause 21.1 (*Appointment of Trustee*)), such actions within a reasonable period of time and such failure or inability is continuing; or
- (b) the Security Agent has been instructed by the Instructing Group (as defined in the Intercreditor Agreement (if any)) in accordance with the Intercreditor Agreement (if any) to enforce the Transaction Security but is legally unable to take such enforcement actions,

however, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Trustee under the Finance Documents or by any reason described in paragraph (m) of Clause 21.2 (*Duties of the Trustee*), such failure must continue for at least forty (40) Business Days after notice pursuant to paragraph (n) of Clause 21.2 (*Duties of the Trustee*) before a Holder may take any action referred to in Clause 24.1.

24.3 The provisions of Clause 24.1 shall not in any way limit an individual Holder's right to claim and enforce payments which are due to it under Clause 12.5 (*Mandatory repurchase due to a Change of Control Event or a Delisting Event (put option)*) or other payments which are due by the Issuer to some but not all Holders.

25. TIME-BAR

25.1 The right to receive repayment of the principal of the Bonds shall be time-barred and become void ten (10) years from the relevant Redemption Date. The right to receive payment of Interest (excluding any capitalised Interest) shall be time-barred and become void three (3) years from the relevant due date for payment. The Issuer is entitled to any funds set aside for payments in respect of which the Holders' right to receive payment has been time-barred and has become void.

25.2 If a limitation period is duly interrupted in accordance with the Swedish Act on Limitations (Sw. *preskriptionslag (1981:130)*), a new time-bar period of ten (10) years with respect to the right to receive repayment of the principal of the Bonds, and of three (3) years with respect to the right to receive payment of Interest (excluding capitalised Interest) will commence, in both cases calculated from the date of interruption of the time-bar period, as such date is determined pursuant to the provisions of the Swedish Act on Limitations.

26. NOTICES AND PRESS RELEASES

26.1 Notices

26.2 Any notice or other communication to be made under or in connection with these Terms and Conditions:

- (a) if to the Trustee, shall be given at the address registered with the Swedish Companies Registration Office (Sw. *Bolagsverket*) on the Business Day prior to dispatch or, if sent by email by the Issuer, to such email address as notified by the Trustee to the Issuer from time to time;
- (b) if to the Issuer, shall be given at the address LifeFit Group MidCo GmbH, Hanauer Str. 148 a, c/o LifeFit Group TopCo GmbH, D-60314 Frankfurt a. Main or, if sent by email by the Trustee, to such email address as notified by the Issuer to the Trustee from time to time;
- (c) if to a Guarantor, shall be given to the address stated in the relevant Guarantee or such other address notified by such Guarantor to the Trustee from time to time or, if sent by email by the Trustee, to such email address as notified by that Guarantor to the Trustee from time to time; and
- (d) if to the Holders, shall be given at their addresses as registered with the CSD (or in relation to courier or personal delivery, if such address is a box address, the addressee reasonably assumed to be associated with such box address), on the Business Day prior to dispatch, and by either courier delivery or letter for all Holders. A notice to the Holders shall also be published on the websites of the Issuer and the Trustee.

26.3 Any notice or other communication made by one Person to another under or in connection with these Terms and Conditions shall be sent by way of courier, personal delivery or letter (and, if between the Trustee and the Issuer, by email) and will only be effective, in case of courier or personal delivery, when it has been left at the address specified in Clause 26.2 or, in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 26.2 or, in case of email to the Trustee or the Issuer, when received in legible form by the email address specified in Clause 26.2.

26.4 Failure to send a notice or other communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

26.5 Press releases

26.6 Any notice that the Issuer or the Trustee shall send to the Holders pursuant to Clauses 12.3, 12.5, 14.13, 15.6, 16.3, 17.16, 18.1, 19.1, 20.3, paragraph (n) of Clause 21.2 (*Duties of the Trustee*) and paragraph (a) of Clause 21.4 (*Replacement of the Trustee*) shall also be published by way of press release by the Issuer or the Trustee, as applicable.

26.7 In addition to Clause 26.6, if any information relating to the Bonds, the Issuer or the Group contained in a notice that the Trustee may send to the Holders under these Terms and Conditions has not already been made public by way of a press release, the Trustee shall before it sends such information to the Holders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and

the Trustee considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Holders, the Trustee shall be entitled to issue such press release.

27. FORCE MAJEURE AND LIMITATION OF LIABILITY

- 27.1 Neither the Trustee nor the Paying Agent shall be held responsible for any damage arising out of any legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance (a “**Force Majeure Event**”). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Trustee or the Paying Agent itself takes such measures, or is subject to such measures.
- 27.2 The Paying Agent shall have no liability to the Holders if it has observed reasonable care. The Paying Agent shall never be responsible for indirect damage with exception of gross negligence and wilful misconduct.
- 27.3 Should a Force Majeure Event arise which prevents the Trustee or the Paying Agent from taking any action required to comply with the Finance Documents, such action may be postponed until the obstacle has been removed.
- 27.4 The provisions in this Clause 27 apply unless they are inconsistent with the provisions of the applicable securities registration legislation which provisions shall take precedence.

28. GOVERNING LAW AND JURISDICTION

- 28.1 These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.
- 28.2 Any dispute or claim arising in relation to these Terms and Conditions shall, subject to Clause 28.3, be determined by Swedish courts and the District Court of Stockholm shall be the court of first instance.
- 28.3 The submission to the jurisdiction of the Swedish courts shall not limit the right of the Trustee (or the Holders, as applicable) to take proceedings against the Issuer in any court which may otherwise exercise jurisdiction over the Issuer or any of its assets.

We hereby certify that the above Terms and Conditions are binding upon ourselves.

Place:

The Issuer

LifeFit Group MidCo GmbH



Name: SEIBOLD Name: _____
CEO

We hereby undertake to act in accordance with the above Terms and Conditions to the extent they refer to us.

Place:

The Trustee

Nordic Trustee & Agency AB (publ)

Name:

Name:

We hereby certify that the above Terms and Conditions are binding upon ourselves.

Place:

The Issuer

LifeFit Group MidCo GmbH

Name:

Name:

We hereby undertake to act in accordance with the above Terms and Conditions to the extent they refer to us.

Place:

The Trustee

Nordic Trustee & Agency AB (publ)



Name: **Anna Litewka**

Name:

by way of power of attorney

SCHEDULE 1 INTERCREDITOR TERM SHEET

Up to EUR 120,000,000 Senior Secured Callable Bonds 2019/2023 (the “**Bonds**”) and EUR [♦] super senior revolving credit facility agreement

These intercreditor principles should be read together with the term sheet for the Bonds (the “**Terms Sheet**”). Unless otherwise defined in this Schedule 1 (*Intercreditor principles*) (the “**ICA Term Sheet**”), term defined in the Term Sheet shall have the same meanings when used in this ICA Term Sheet.

General: To establish the relative rights of creditors under various financing arrangements, the Intercreditor Agreement will be entered into by:

1. the Issuer, [♦] and [♦] (the “**Original ICA Group Companies**”);
2. [[♦] (the “**Original Shareholder Creditor[s]**”);
3. [Nordic Trustee & Agency AB (publ)], acting as security agent (on behalf of the Secured Parties) (the “**Security Agent**”) and as Bonds agent (on behalf of the Bondholders) (the “**Bond Trustee**”);
4. [♦] as hedge counterparty (the “**[Original] Hedge Counterparty**”); and
5. [♦], as lender[s] under the Super Senior RCF (the “**Super Senior RCF Creditor[s]**”).

Background: The security securing the Secured Parties will (to the extent permitted by applicable law and practically possible) be a single security package which will be held pursuant to relevant law and intercreditor arrangements, and the Security Agent will be appointed as initial security agent to hold the security on behalf of the Secured Parties.

Definitions: “**Bonds Finance Documents**” means the Terms and Conditions, the Trustee Agreement, the Security Documents, the Intercreditor Agreement and any other document designated to be a Bonds Finance Document by the Issuer and the Trustee.

“**Debt**” means any indebtedness under or in connection with the Bonds, the Super Senior Debt (including any replacement debt referred to in "Replacement of debt" below) any Shareholder Debt and the Intercompany Debt.

“**Enforcement Action**” means any action of any kind to:

- (a) demand payment which has fallen due, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of any Debt or Guarantee (other than as a result of it becoming unlawful for a Secured Party to perform its obligations under, or of any voluntary or mandatory prepayment under, the Senior Finance Documents);
- (b) recover all or any part of any Debt (including by exercising any set-off, save as required by law and normal netting and set-off transactions in the ordinary course of business);
- (c) exercise or enforce any enforcement right under the Transaction Security, in each case granted in relation to (or given in support of) all or any part of any Debt;

- (d) petition for (or take or support any other step which may lead to) an Insolvency Event;
- (e) sue, claim or bring proceedings against the Issuer, any Guarantor or any ICA Group Company in respect of recovering any Debt; or
- (f) in relation to any Hedging Obligation only, designate an Early Termination Date (as defined in the relevant Hedging Agreement) under any Hedging Agreement, or terminate, or close out any transaction under, any Hedging Agreements, prior to its stated maturity, or demand payment of any amount which would become payable on or following an Early Termination Date (as defined in the relevant Hedging Agreement) or any such termination or close-out, unless voluntary or in accordance with a partial termination in accordance with the terms of the Senior Finance Documents and not related to any default.

“Final Discharge Date” means the date when all principal, interest and any other costs or outstanding amounts under the Senior Finance Documents have been irrevocably discharged in full and that all commitments under the Senior Finance Documents have been cancelled or terminated.

“Hedge Counterparty” means [(i) the Original Hedge Counterparty and (ii)] any person who is or becomes a hedge counterparty pursuant to any Hedging Agreement and has acceded to the Intercreditor Agreement.

“Hedging Agreement” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by an ICA Group Company and a Hedge Counterparty in connection with protection against or benefit from fluctuation in any rate (including currency) or price, in respect of payments to be made under the Terms and Conditions or the Super Senior Documents (but not a derivative transaction for investment or speculative purposes).

“Hedging Obligations” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Obligor to any Hedge Counterparty under or in connection with any Hedging Agreement.

“ICA Group Companies” means the Original ICA Group Companies and any other Group Company and/or entity which has acceded to the Intercreditor Agreement pursuant to the Senior Finance Documents.

“Insolvency Event” means that:

- (a) any Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally (except for the Super Senior RCF Creditors or Senior Creditors) with a view to rescheduling its Financial Indebtedness;
- (b) a moratorium is declared in respect of the Financial Indebtedness of any Group Company;
- (c) any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within 60 days of commencement or, if earlier, the date on which it is advertised, (ii) proceedings or petitions

concerning a claim which is less than EUR 500,000, and (iii), in relation to Subsidiaries, solvent liquidations) in relation to:

- (i) the suspension of payments, winding-up, dissolution, administration or reorganisation (Sw. *företagsrekonstruktion*) (by way of voluntary agreement, scheme of arrangement or otherwise) of any Group Company; and
- (ii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Company or any of its assets,

or any analogous procedure or step is taken in any jurisdiction.

“Intercompany Debt” means any intercompany loan between members of the Group.

“Secured Obligations” means all obligations of the Group outstanding from time to time under the Senior Finance Documents, both actual and contingent.

“Senior Creditor” means the Bondholders.

“Senior Debt” means all indebtedness outstanding to the Senior Creditors under the Bonds Finance Documents.

“Senior Finance Documents” means the Bonds Finance Documents and the Super Senior Documents.

“Shareholder Creditor” means [the Original Shareholder Creditor[s] and] any creditor being a direct or indirect shareholder of the Issuer which shall be subordinated pursuant to the Intercreditor Agreement.

“Shareholder Debt” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any member of the Group to any Shareholder Creditor, including any dividends and any advisory, monitoring or management fee.

“Super Senior Creditor” means each Super Senior RCF Creditor and each Hedge Counterparty.

“Super Senior Debt” means (i) all indebtedness outstanding to the Super Senior RCF Creditors under the Super Senior Documents and (ii) all indebtedness outstanding to a Hedge Counterparty (if any) under a Hedging Agreement.

“Super Senior Documents” means the Super Senior RCF, the Intercreditor Agreement, the Hedging Agreements (if any) and the Security Documents.

“Super Senior RCF” means any facility provided by a Super Senior RCF Creditor for the general corporate purposes of the Group in the maximum aggregate nominal amount of EUR 10,000,000 (or its equivalent in any other currency or currencies).

“Transaction Security” means the Security provided to the Secured Parties under the Security Documents.

“Triggering Event” means:

- (a) the occurrence of an event of default (however described) under any Senior Finance Document; or
- (b) a breach of any financial covenant under the Super Senior Documents.

Ranking and priority:	Each of the parties to the Intercreditor Agreement will agree that the Secured Obligations owed by the ICA Group Companies to the Secured Parties and the other relevant parties shall rank in all respects in right and priority of payment in the following order: <ul style="list-style-type: none"> (a) <i>first</i>, the Super Senior Debt (<i>pari passu</i> between all indebtedness under the Super Senior Debt); (b) <i>secondly</i>, the Senior Debt (<i>pari passu</i> between all indebtedness under the Senior Debt); (c) <i>thirdly</i>, any liabilities raised in the form of Intercompany Debt; and (d) <i>fourthly</i>, any liabilities raised in the form of Shareholder Debt.
Payment Block:	Following a Triggering Event and for as long as it is continuing or up until a written notice from the Super Senior RCF Creditor to the contrary, no payments may be made to or for the account of the Senior Creditors.
Turnover:	The Intercreditor Agreement shall include provisions for turnover of payments received in conflict with this ICA Term Sheet.
Hedging arrangements:	The Intercreditor Agreement will contain customary provisions regarding the hedging arrangements and the rights and obligations of the Hedge Counterparties, including without limitation (i) certain qualification requirements for Hedge Counterparties, (ii) any hedging agreement to be based on the 1992 or 2002 ISDA Master Agreement or any other framework which is similar in terms and effect and contain provisions regarding <i>inter alia</i> application of "Second Method" in case of termination event or event of default and provisions regarding "Automatic Early Termination" (or provisions similar in terms and effect), (iii) no voting rights and no enforcement rights for Hedge Counterparties, and (iv) restrictions on over-hedging.
Subordination of Intercompany Debt:	Any Intercompany Debt shall be subordinated to the Secured Obligations (including with respect to maturity). Repayment of principal and payment of interest on Intercompany Debt not being subject to Transaction Security shall be allowed up until a Triggering Event. Payment of interest, but not repayment of principal, on Intercompany Debt subject to Transaction Security shall be allowed up until a Triggering Event. However, provided that payment of principal and interest on Intercompany Debt shall always be permitted if made for the purpose of serving Debt to the Secured Parties and such payment is made directly to the Secured Parties (represented by the Security Agent) for repayment of principal or payment of interest on such Debt owed to the Secured Parties.
Subordination of Shareholder Debt:	Any Shareholder Debt shall be subordinated to the Secured Obligations and any repayment of, or payment of interest under, any Shareholder Debt shall be subject to all Secured Obligations having been discharged in full (other than as permitted by the Senior Finance Documents).
Replacement of Super Senior RCF:	The Issuer shall (after prior approval from the Super Senior RCF Creditor) from time to time be entitled to replace the Super Senior RCF in full or in part with another Super Senior RCF.
Cancellation of Super Senior RCF:	To the extent the Issuer repurchases, amortises or otherwise repays the Bonds whereby the aggregate Nominal Amount of Bonds outstanding falls below sixty (60) per cent. of the aggregate Initial Nominal Amount, the Super Senior RCF

Creditor may demand repayment and cancellation of the Super Senior RCF *pro rata* with such repurchase, amortisation or other repayment.

Limitation on Secured Obligations and subordination:

All Transaction Security, Guarantees and subordination provisions in the Intercreditor Agreement shall be subject to applicable customary limitation language and parallel debt language (as applicable), including as required by the capital maintenance requirements under German corporate law and similar restrictions under German law.

Appointment of security agent:

The Secured Parties will appoint and authorise the Security Agent to hold and to act as its agent with respect to the Security Documents, to the extent permitted by applicable law. The Security Agent's appointment and duties shall be subject to customary indemnities and limited to a customary scope of engagement.

New security:

Any new security created (and guarantees and indemnities granted) in respect of any Secured Obligation shall be extended to and shared between the Secured Parties on a *pro rata* basis and in accordance with the ranking and priority set forth above.

Enforcement:

The Intercreditor Agreement will contain provisions regulating the Secured Parties' respective rights to vote and instruct the Security Agent to enforce the Transaction Security, according to the following principles:

(a) **Enforcement Actions and Enforcement Instructions**

- (i) Other than as expressly permitted by the terms of the Intercreditor Agreement, no Secured Party may independently accelerate, seek payment and exercise other rights and powers to take Enforcement Actions under the Senior Finance Documents.
- (ii) The Security Agent may refrain from enforcing the Transaction Security or take other Enforcement Actions unless instructed otherwise by the Instructing Party in accordance with paragraph (b) below but always subject to paragraph (a)(iv) below.
- (iii) Subject to the Transaction Security or the Guarantees having become enforceable in accordance with its terms and subject to paragraph (b) below, the Instructing Party may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit, provided that the instructions are consistent with the Security Enforcement Objective.
- (iv) Notwithstanding anything to the contrary in paragraphs (a)-(b), the Senior Representative may only give any Enforcement Instructions if the proceeds to be received from the proposed Enforcement Action is expected to amount to or exceed the amount of the Super Senior Debt.
- (v) The Security Agent is entitled to rely on and comply with instructions given in accordance with this paragraph (a).

(b) **Consultation**

- (i) If either the Super Senior Representative or the Senior Representative wishes to issue Enforcement Instructions, such Representative shall deliver a copy of those proposed Enforcement Instructions (an "**Enforcement Proposal**") to the Security Agent

and the Security Agent shall promptly forward such Enforcement Proposal to the other Representative.

- (ii) Subject to paragraph (b)(iii) below, if the Security Agent has received Conflicting Enforcement Instructions, the Security Agent shall promptly notify the Representatives and the Representatives will consult with each other and the Security Agent (as the case may be) in good faith for a period of not less than 30 days (or such shorter period as the Representatives may agree) (the "**Consultation Period**") from the earlier of (A) the date of the latest such Conflicting Enforcement Instruction and (B) the date falling ten (10) Business Days after the date on which the original Enforcement Proposal is delivered in accordance with paragraph (b)(i) above, with a view to agreeing instructions as to enforcement.
 - (iii) The Representatives shall not be obliged to consult (or, in the case of (B) below, shall be obliged to consult for such shorter period as the Instructing Party may determine) in accordance with paragraph (b)(ii) above if:
 - (A) the Transaction Security or the Guarantees have become enforceable as a result of an Insolvency Event; or
 - (B) each of the Super Senior Creditors and the Bondholders (represented by the Bonds Agent), agree that no Consultation Period is required.
 - (iv) If consultation has taken place during the Consultation Period there shall be no further obligation to consult and the Security Agent may act in accordance with the instructions as to enforcement then or previously received from the Instructing Party and the Instructing Party may issue instructions as to enforcement to the Security Agent at any time thereafter.
 - (v) If (A) no enforcement instructions have been issued to the Security Agent from the Instructing Party within three (3) months from the end of the Consultation Period, or (B) no proceeds from an enforcement of the Transaction Security or the Guarantees have been received by the Security Agent within six (6) months from the end of the Consultation Period, then the Super Senior Representative shall become the Instructing Party and be entitled to give Enforcement Instructions.
 - (vi) If a Secured Party (acting reasonably) considers that the Security Agent is enforcing the Security in a manner which is not consistent with the Security Enforcement Objective, such Secured Party shall give notice to the other Secured Parties after which the Representatives and the Security Agent shall consult for a period of twenty (20) days (or such lesser period that the Secured Parties may agree) with a view to agreeing on the manner of enforcement.
- (c) **Miscellaneous**

- (i) Upon an enforcement of the Transaction Security, the proceeds shall be distributed in accordance with the Application of Enforcement Proceeds set out below.
- (ii) Any Enforcement Action required to be taken by the Representative in accordance with agreed Enforcement Instructions pursuant to paragraph (b) above, shall be taken by such Representative at the request of the Security Agent.
- (iii) All security and/or guarantees or arrangement having similar effects may be released by the Security Agent, without the need for any further referral to or authority from anyone, upon any enforcement provided that the proceeds are distributed in accordance with the provisions set out in the Intercreditor Agreement.
- (iv) Nothing herein shall preclude the rights of the Super Senior Creditors or the Bond Trustee to join or intervene in or otherwise support any proceedings arising from insolvency proceedings or do such other things as may be necessary to maintain a claim or security, always as long as such action does not adversely affect the rights of the other Secured Creditors or the Security Agent and is not inconsistent with its obligations contained in the Intercreditor Agreement and each of the Super Senior Creditors and the Bond Trustee shall give prompt notice to the other of any action taken by it to join, intervene or otherwise support any such proceedings.
- (v) For avoidance of doubt, customary provisions regarding permitted (or required) actions once an Insolvency Event has occurred to be included in the Intercreditor Agreement.

“Conflicting Enforcement Instructions” means instructions (or proposed instructions) as to enforcement of the Transaction Security or the taking of any Enforcement Action delivered to the Security Agent by a Representative that are inconsistent with any other instruction (or proposed instruction) given as to the manner of enforcement (including any inconsistency as to the timeframe for realising value from an enforcement of the Transaction Security or the Guarantees or a distressed disposal), it being understood that, for the purpose of triggering the consultation requirements under paragraph (b)(ii) above only and not for any other purpose (including, without limitation, determining the Instructing Party), the failure to give instructions by either the Super Senior Representative or Senior Representative will be deemed to be an instruction inconsistent with any other instructions given.

“Enforcement Instructions” means instructions as to enforcement (including the manner and timing of enforcement) given by a Representative to the Security Agent provided that instructions not to undertake enforcement or an absence of instructions as to enforcement shall not constitute "Enforcement Instructions".

“Representative” means the Senior Representative or the Super Senior Representative.

“Senior Representative” means, at any time, those Senior Creditors whose Senior Debt at that time aggregate more than 50 per cent. of the total Senior Debt at that

time. The Bond Trustee shall represent all Bondholders and act on the instructions of and on behalf of the Bondholders.

“**Super Senior Representative**” means, at any time, holders of 66⅔% of the aggregate of:

- (a) the Super Senior RCF;
- (b) following a permitted termination or close out of any Hedging Obligation, the settlement amount of that Hedging Obligation to the extent that that settlement amount is due to the Hedge Counterparty and has not been paid by the relevant ICA Group Company; and
- (c) (following discharge in full of the Super Senior RCF only), the deemed settlement amount of the Hedging Obligations (that have not been closed out or terminated) at any time.

“**Instructing Party**” means the Senior Representative or, following replacement in accordance with paragraph (b)(v) above, the Super Senior Representative.

**Application of
Enforcement Proceeds:**

The proceeds of any Enforcement Action (including but not limited to any proceeds received from any direct or indirect realisation or sale by the Security Agent of any assets being subject to Transaction Security, payments under any Guarantee or proceeds received in connection with bankruptcy or other insolvency proceedings) shall be paid to the Security Agent for application in the following order:

- (a) *firstly*, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by any Group Company to the Security Agent;
- (b) *secondly*, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by any Group Company to the Paying Agent, the Bond Trustee and any agent representing creditors under the Super Senior RCF;
- (c) *thirdly*, towards payment *pro rata* of accrued interest unpaid under the Super Senior Documents;
- (d) *fourthly*, towards payment *pro rata* of principal under the Super Senior Documents and any other costs or outstanding amounts under the Super Senior Documents, and any close out amount and any other outstanding amounts under the Hedging Obligations (if any);
- (e) *fifthly*, towards payment *pro rata* of accrued interest unpaid under the Senior Debt (interest due on an earlier Interest Payment Date to be paid before any interest due on a later Interest Payment Date);
- (f) *sixthly*, towards payment *pro rata* of principal under the Senior Debt;
- (g) *seventhly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Terms and Conditions and any Senior Debt documents;
- (h) *eighthly*, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Intercompany Debt;
- (i) *ninthly*, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Shareholder Debt; and

- (j) *tenthly*, after the Final Discharge Date, in payment of the surplus (if any) to the relevant ICA Group Company or other person entitled to it.

Governing law:

The Intercreditor Agreement shall be governed by German law or, if so elected by the Super Senior RCF Creditor, Swedish law.

The Issuer shall procure the delivery of a local law legal opinion on the capacity and due execution of each ICA Group Company which enters into or accedes to the Intercreditor Agreement and the validity and enforceability of the Intercreditor Agreement, issued by a reputable law firm.

Miscellaneous:

The Bond Trustee and the Super Senior RCF Creditor shall have a duty to inform the other creditor classes of any default or event of default which is continuing or any acceleration. The ICA Group Companies shall use all reasonable endeavours to facilitate any necessary establishment of new security or change of the Transaction Security pursuant to the Intercreditor Agreement. At any time following the occurrence of an Enforcement Action, an ICA Group Company shall, if requested by the Security Agent (acting on instruction by the Instructing Party), release and discharge any liabilities owed by another ICA Group Company to such ICA Group Company as specified by the Security Agent, by way of shareholders' contribution, forgiveness of liabilities, or in any other way deemed appropriate by the Security Agent.
