

Guarantee Agreement

dated 29 October 2019

between

LifeFit Group MidCo GmbH

as the Issuer

The Subsidiaries of the Issuer

listed in Schedule 1
as Original Guarantors

and

Oldenburgische Landesbank Aktiengesellschaft

as Original Lender and Super Senior Agent for itself and on behalf of the Secured Parties represented
by it

and

Nordic Trustee & Agency AB (publ)

as Security Agent for itself and on behalf of the Secured Parties represented by it

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THIS GUARANTEE AGREEMENT (the “**Agreement**”) is made on the date first stated above between:

- (1) **LIFEFIT GROUP MIDCO GMBH**, a limited liability company incorporated in Germany, registered in the commercial register of the local court of Munich under HRB 248092 and with registered address Hanauer Straße 148a, c/o LifeFit Group TopCo GmbH, 60314 Frankfurt am Main as issuer of the Bonds (the “**Issuer**”);
- (2) **THE SUBSIDIARIES** of the Issuer listed in Schedule 1 (*The Original Guarantors*) as original guarantors (the “**Original Guarantors**”);
- (3) **OLDENBURGISCHE LANDESBANK AKTIENGESELLSCHAFT** as original lender under the Super Senior RCF (the “**Original Lender**”) and as agent for itself and for each of the Super Senior Creditors (the “**Super Senior Agent**”); and
- (4) **NORDIC TRUSTEE & AGENCY AB (publ)**, for itself and as security agent for each of the Secured Parties (the “**Security Agent**”).

Whereas:

- (A) The Issuer has issued on 26 July 2019 senior secured callable floating rate notes due 2023 in an aggregate nominal amount of EUR 40,000,000.00 with ISIN: NO0010856966 (the “**Bonds**”). On 23 July 2019, the Issuer executed terms and conditions for the Bonds (as amended and/or amended and restated from time to time, the “**Terms & Conditions**”).
- (B) Each of the Guarantors shall, pursuant to the Terms & Conditions, provide a guarantee to the Secured Parties (as represented by the Security Agent) for the full and punctual payment by the Issuer of the Secured Obligations under the Bonds.
- (C) The Issuer and the Original Guarantors envisage to enter into a EUR 10,000,000 super senior revolving facility agreement with, amongst others, the Original Lender, the Super Senior Agent and the Security Agent (the “**Super Senior RCF**”). Pursuant to the Super Senior RCF Agreement the Issuer shall procure that each Guarantor provides a guarantee and indemnity to each of the Super Senior Creditors (as represented by the Super Senior Agent) for the full and punctual payment by the Issuer of the Secured Obligations under the Super Senior RCF Agreement.
- (D) Each Guarantor has received a copy of the Terms & Conditions, the Super Senior RCF Agreement and the other Senior Finance Documents and has been duly informed of the guarantees and Transaction Security granted or purported to be granted under and in respect thereof.
- (E) The managing directors of each Guarantor are satisfied that such Guarantor is entering into this Guarantee for the purposes of its business and that in doing so it will promote the success of that Guarantor.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

“**Accession Letter**” means a letter substantially in the form set out in Schedule 3 (*Form of Accession Letter*).

“**Additional Guarantor**” means a member of the Group which becomes a Guarantor in accordance with Clause 6.1 (*Additional Guarantors*) of this Agreement and Clause 25.4 (*Additional Guarantors*) of the Super Senior RCF Agreement.

“**Bond Trustee**” means Nordic Trustee & Agency AB (publ) as agent for the Bondholders or a new agent replacing it in accordance with Clause 21 (*Appointment and Replacement of the Trustee*) of the Terms and Conditions.

“**Bondholders**” has the meaning ascribed to the term “Holder” in the Terms and Conditions.

“**Bonds Finance Documents**” means the “Finance Documents” as defined in the Terms and Conditions.

“**Distressed Disposal**” means a disposal of an asset of a member of the Group which is:

- (a) being effected at the request of the Secured Parties in circumstances where the Transaction Security has become enforceable;
- (b) being effected by enforcement of the Transaction Security (including the disposal of any property of a member of the Group (including but not limited to a Subsidiary of such member of the Group), the shares in which have been subject to an appropriation (or similar process) by the Secured Parties); or
- (c) being effected, after the occurrence of a termination of the Bonds pursuant to Clause 15 (*Termination of the Bonds*) of the Terms & Conditions, by a member of the Group to a person or persons which is, or are, not a member, or members, of the Group.

“**Group**” means the Issuer and its Subsidiaries for the time being.

“**Guarantee**” means the guarantee and indemnity obligation of the Guarantors pursuant to Clause 2 (*Guarantee and Indemnity*) of this Agreement.

“**Guarantor**” means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 6.2 (*Resignation of a Guarantor*).

“**Hedge Counterparty**” means any person who becomes a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the terms of the Intercreditor Agreement.

“**Hedging Agreement**” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by a Guarantor 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).

“**Intercreditor Agreement**” means the intercreditor agreement which is substantially based on the terms set out in the intercreditor principles set out in Schedule 1 (*Intercreditor Principles*) of the Terms and Conditions and entered into between, amongst others, the Issuer, the Super Senior RCF Creditors, any Hedge Counterparty, any creditor of Shareholder Debt (as such term is defined therein), the Super Senior Agent and the Security Agent.

“**Legal Opinion**” means any legal opinion delivered to the Super Senior Agent under Clause 5.1 (*Conditions Precedent*) or Clause 5.2 (*Conditions Subsequent*) of the Terms & Conditions or, in relation to an Additional Obligor, under Clause 6.1 (*Additional Guarantors*) of this Agreement.

“Legal Reservations” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) limitation of recognition and application of foreign laws as a result of *ordre public*;
- (c) the time barring of claims under the applicable limitation laws;
- (d) similar principles, rights and defences under applicable laws; and
- (e) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

“Liabilities” means all present and future liabilities and obligations, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by any debtor of a payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

“Obligors” means the Issuer and any additional borrower under the Super Senior Documents.

“Non-Distressed Disposal” means a disposal of an asset of a member of the Group or an asset which is subject to the Transaction Security to a person outside the Group where that disposal is not a Distressed Disposal.

“Resignation Letter” means a letter substantially in the form set out in Schedule 4 (*Form of Resignation Letter*).

“Secured Obligations” means all Liabilities due, owing or incurred from time to time by any member of the Group to any Secured Party under the Senior Finance Documents, both actual and contingent.

“Secured Parties” means the Bond Trustee, the Security Agent, the Super Senior Agent and the creditors under the Senior Finance Documents but only if it (or, in the case of a Bondholder, its representative) is a party or has acceded to the Intercreditor Agreement in the appropriate capacity pursuant to the terms of the Intercreditor Agreement.

“Security” means a mortgage, charge, pledge, lien 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) as security agent for each of the Secured Parties or any new security agent replacing it in accordance with the terms of the Intercreditor Agreement.

”Security Documents” means:

- (a) each of the Transaction Security Documents;
- (b) any other document entered into at any time by any of the Guarantors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and
- (c) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (a) and (b) above.

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

”Subsequent Bond Issue” has the meaning ascribed to such term in the Terms and Conditions.

”Subsidiary” means

- (a) a subsidiary within the meaning of sections 15 - 17 Stock Corporation Act (*Aktiengesetz*); and
- (b) any subsidiary of another Subsidiary within the meaning of paragraph (a) above.

”Super Senior Agent” means Oldenburgische Landesbank Aktiengesellschaft as agent for itself and for each of the Super Senior Creditors, any agent replacing it as Super Senior Agent in connection with a replacement of the Super Senior RCF, or any other agent or representative under new Super Senior RCF Documents.

”Super Senior Creditors” means the Super Senior RCF Creditors and the Hedge Counterparties.

”Super Senior Documents” means the Super Senior RCF Documents and the Hedging Agreements.

”Super Senior RCF Agreement” means any agreement documenting:

- (a) the Super Senior RCF; or
- (b) any other working capital facilities agreements in the maximum aggregate nominal amount of EUR 10,000,000 (or its equivalent in any other currency or currencies) or similar agreement providing financing for general corporate purposes between any member of the Group and a Super Senior RCF Creditor replacing the Super Senior RCF to be used for general corporate purposes of the Group in accordance with the terms of the Intercreditor Agreement.

”Super Senior RCF Creditors” means the Super Senior Agent, the Original Lender and any person who has become a party to the Intercreditor Agreement as a Super Senior RCF Creditor in accordance with the terms of the Intercreditor Agreement.

”Super Senior RCF Documents” means any Super Senior RCF Agreement, the Intercreditor Agreement, this Agreement and the Security Documents.

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

”Transaction Security Documents” means any documents creating or expressed to create any Security in respect of the Secured Obligations.

1.2 Construction

- (a) Any reference in this Agreement to the “**winding-up**”, “**dissolution**” or “**administration**” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including, without limitation, the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection from creditors or relief of debtors.
- (b) Unless this Agreement provides otherwise or the context otherwise requires, a term which is defined (or expressed to be subject to a particular construction) in the Intercreditor Agreement shall have the same meaning (or be subject to the same construction) in this Agreement.
- (c) A reference in this Agreement to any agreement or document or to any agreement or document entered into pursuant to or in accordance with any such agreement or document is a reference to such agreement or document as amended, novated, supplemented, extended or restated.
- (d) A provision of law is a reference to that provision as amended or re-enacted.
- (e) Clause and schedule headings are for ease of reference only and shall not affect the construction of this Agreement.

2. Guarantee and Indemnity

2.1 Guarantee and Indemnity

Each Guarantor irrevocably and unconditionally, jointly and severally (*gesamtschuldnerisch*), but subject to any limitations explicitly set out in Clause 2.10 (*German Limitations*) or in any Accession Letter by which such Guarantor became a party hereto:

- (a) guarantees (*garantiert*) by way of an independent payment obligation (*selbständiges Zahlungsversprechen*) to each Secured Party (as represented by the Super Senior Agent or the Security Agent) to pay to that Secured Party any amount of principal, interest, costs, expenses or other amount under or in connection with the Senior Finance Documents that has not been fully and irrevocably paid by any of the Obligors; the payment shall be due (*fällig*) within three Business Days of a written demand by a Secured Party (or the Super Senior Agent or Security Agent on its behalf) stating the sum demanded from that Guarantor and that such sum is an amount of principal, interest, costs, expenses or other amounts under or in connection with the Senior Finance Documents that has not been fully and irrevocably paid by the Obligors; and
- (b) undertakes against each Secured Party (as represented by the Super Senior Agent or the Security Agent) to indemnify (*schadlos halten*) each Secured Party against any cost, loss or liability suffered by a Secured Party if any obligation of an Obligor under or in connection with any of the Senior Finance Documents or any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount payable by a Guarantor under this paragraph (b) shall be equal to the amount which each Secured Party would otherwise have been entitled to recover (*Ersatz des positiven Interesses*) and that claim shall be due (*fällig*) within three Business Days of a written demand by the Super Senior Agent or the Security Agent on its own behalf or on behalf of a Secured Party.

For the avoidance of doubt this Guarantee does not constitute a guarantee upon first demand (*Garantie auf erstes Anfordern*) and, in particular, receipt of such written demand shall not

preclude any rights and/or defenses a Guarantor may have with respect to any payment requested by the Super Senior Agent or the Security Agent on its own behalf or on behalf of a Secured Party under this Guarantee.

2.2 Continuing Obligations

This Guarantee is independent and separate from the obligations of any Obligor under the Super Senior Documents and is a continuing guarantee and indemnity which will extend to the ultimate balance of the Secured Obligations payable by any of the Obligors under any of the Senior Finance Documents, regardless of any intermediate payment or discharge by an Obligor in whole or in part.

The Guarantee shall extend to any additional obligations of any Obligor resulting from any amendment, novation, supplement, extension, restatement or replacement of any Senior Finance Documents, including, without limitation, any Subsequent Bond Issue and any extension of or increase in any facility or the addition of a new facility under any Super Senior Documents.

2.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the Secured Obligations or any security for the Secured Obligations or otherwise) is made by the Secured Parties in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then

- (a) the liability of each Guarantor under this Agreement will continue or be reinstated as if the discharge, release or arrangement had not occurred; and
- (b) each Secured Party shall be entitled to recover the value or amount of that security or payment from each Guarantor, as if the payment, discharge, avoidance or reduction had not occurred.

2.4 Waiver of Defences

The obligations of each Guarantor under this Agreement will not be affected by any act, omission, matter or thing which relates to the principal obligation (or purported obligation) of any of the Obligors under the Senior Finance Documents and which would reduce, release or prejudice any of its obligations under this Agreement, including any personal defenses of any Obligor under the Senior Finance Documents (*Einreden des Hauptschuldners*) or any right of revocation (*Anfechtung*) or set-off (*Aufrechnung*) of any of the Obligors under the Senior Finance Documents.

The obligations of each Guarantor under this Agreement are independent from any other security or guarantee which have been or will be given to the Secured Parties. In particular, the obligations of each Guarantor under this Agreement will not be affected by any of the following:

- (a) any time, waiver or consent granted to, or composition with, any of the Obligors or any other person;
- (b) the release of any of the Obligors or any other person under the terms of any composition or arrangement with any creditor of any of the Obligors;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any of the Obligors or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any of the Obligors or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Senior Finance Document or any other document or security including without limitation any change in the purpose of, any extension of the Bonds or the issuance of any Subsequent Bonds;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Senior Finance Document, guarantee or any other agreement, guarantee or security; or
- (g) any insolvency or similar proceedings.

For the avoidance of doubt nothing in this Agreement shall preclude any defenses that any Guarantor (in its capacity as Guarantor only) may have against a Secured Party that its presumed obligations hereunder do not constitute its legal, valid, binding or enforceable obligations.

2.5 Guarantor Intent

Without prejudice to the generality of Clause 2.4 (*Waiver of Defences*), each Guarantor expressly confirms that it intends that this Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Finance Documents and/or any amount (including, without limitation, any Subsequent Bonds) made available under the Finance Documents.

2.6 Immediate Recourse

Each Guarantor waives any right it may have of first requiring the Secured Parties to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Agreement. This waiver applies irrespective of any law or any provision of any Senior Finance Document to the contrary.

2.7 Appropriation

Until all amounts which may be or become payable by any Obligor under or in connection with the Senior Finance Documents have been irrevocably paid in full, the Super Senior Agent and the Security Agent may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by a Secured Party (or the Super Senior Agent or Security Agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise), and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Agreement.

2.8 Deferral of Guarantor's Rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Senior Finance Documents have been irrevocably paid in full and unless the Super Senior Agent and the Security Agent otherwise direct, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under this Agreement or by reason of any amount being payable, or liability arising, under this Agreement:

- (a) to be indemnified by any of the Obligors;
- (b) to claim any contribution from any other guarantor of the Obligors' obligations under the Senior Finance Documents;

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Senior Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Senior Finance Documents by the Secured Parties;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment or perform any obligation in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Agreement;
- (e) to exercise any right of set-off or counterclaim against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor or any other person or its estate in competition with the Secured Parties.

If a Guarantor received any benefit, payment or distribution in relation to such rights, it shall hold that amount separated from its other assets and promptly pay or distribute an amount equal to that receipt or recovery to the Super Senior Agent or the Security Agent for application in accordance with the Intercreditor Agreement.

2.9 Additional Security

This Agreement is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Secured Parties.

2.10 German Limitations

The right to enforce any obligation and liability of a Guarantor incorporated under the laws of Germany in the legal form of a German limited liability company (“**German Guarantor**”) arising out of or under any guarantee and indemnity pursuant to this Clause 2 (“**German Obligations**”) shall be limited as follows:

- (a) The enforcement of the German Obligations shall be limited, if and to the extent that the enforcement of the German Obligations would otherwise cause the German Guarantor's assets (the calculation of which shall include all items set forth in section 266 para. 2 lit. A, B and C of the German Commercial Code (*Handelsgesetzbuch*)) less the German Guarantor's liabilities (the calculation of which shall include all items set forth in section 266 para. 3 lit. B, C and D of the German Commercial Code), (the “**Net Assets**”) being less than its respective registered share capital (*Stammkapital*) (*Begründung einer Unterbilanz*) or (if the German Guarantor's Net Assets are already less than its respective registered share capital) causing such amount to be further reduced (*Vertiefung einer Unterbilanz*).
- (b) For the purpose of the calculation of the enforceable amount as referred to in Clause 2.10(a) (if any) the following balance sheet items shall be adjusted as follows:
 - (i) loans provided to the German Guarantor by another member of the Group (other than a Subsidiary of such German Guarantor) shall be disregarded, if and to the extent that such loans are contractually subordinated or subordinated pursuant to section 39 paragraph 2 of the German Insolvency Code (*Insolvenzordnung*) (or would be subordinated in case of insolvency);
 - (ii) the amount of non-distributable assets according to sections 253 paragraph 6, 268 paragraph 8 and 272 paragraph 5 of the German Commercial Code shall not be included in the calculation of Net Assets;
 - (iii) loans and other contractual liabilities incurred in negligent or wilful violation of the provisions of this Guarantee or the Finance Documents shall be disregarded;

- (iv) if the registered share capital of the German Guarantor is not fully paid up (*nicht voll eingezahlt*), the relevant amount which is not paid up shall be deducted from the registered share capital; and
 - (v) the amount of any increase after the date of this Agreement of the German Guarantor's registered share capital which has been effected without the prior written consent of the Super Senior Agent and the Security Agent shall be deducted from the registered share capital.
- (c) The enforcement of the German Obligations shall initially be excluded if no later than fifteen (15) Business Days following receipt of a notification from the Security Agent by the German Guarantor, setting out the Security Agent's intention to enforce the German Obligations, the managing director(s) on behalf of the German Guarantor have confirmed in writing to the Security Agent which amount of the German Obligations cannot be enforced as it would cause (1) the Net Assets of the German Guarantor being less than (or to fall further below) its respective registered share capital (in each case as calculated and adjusted in accordance with Clause 2.10(a) and (b) above), or (2) the German Guarantor's inability to pay its debts as they fall due (the "**Management Determination**") and such confirmation is supported by a reasonable satisfactory calculation, provided that the Security Agent shall in any event be entitled to enforce the German Obligations for any amounts where such enforcement would, in accordance with the Management Determination, not cause (x) the German Guarantor's Net Assets being less than (or to fall further below) the amount of its respective registered share capital (in each case as calculated and adjusted in accordance with Clause 2.10(a) and (b) above), or (y) the German Guarantor's inability to pay its debts as they fall due.
- (d) Following the Security Agent's receipt of a Management Determination the enforcement of the German Obligations shall be excluded for a period of no more than thirty (30) days only. If the Security Agent receives within such thirty (30) day period (i) an up-to date balance sheet and/or an up-to date liquidity statement (*Liquiditätsaufstellung*), as the case may be, together with (ii) a determination in each case prepared by auditors of international standard and reputation appointed by the relevant German Guarantor either confirming the Management Determination or setting out deviations from the Management's Determination (the "**Auditor's Determination**"), the enforcement of the German Obligations shall be limited, if and to the extent such enforcement would, in accordance with the Auditor's Determination cause either (x) the German Guarantor's Net Assets being less than (or to fall further below) the amount of its respective registered share capital (in each case as calculated and adjusted in accordance with Clause 2.10(a) and (b) above), or (y) an inability of the German Guarantor to pay its debts as they fall due as set out in Clause 2.10(c) above. If the German Guarantor fails to deliver an Auditor's Determination within thirty (30) days after the Security Agent's receipt of the Management Determination, the Security Agent shall be entitled to enforce the German Obligations without any limitation or restriction.
- (e) If the Guarantee cannot be enforced pursuant to the limitations provided for in this Clause 2.10, the respective Guarantor shall sell any asset whose book value is significantly lower than its market value upon the request of the Super Senior Agent or the Security Agent, unless the asset is necessary for its operations (*betriebsnotwendig*). The Guarantor will notify the Super Senior Agent and the Security Agent of the amount of the proceeds from the sale and the book value of the sold asset. The Guarantee may be enforced in the amount of the positive difference between the proceeds from the sale of the asset and its book value provided and to the extent that the Net Assets determined in accordance with paragraph (a) above exceed an amount of zero Euro.

- (f) The limitations provided for in this Clause 2.10 shall not apply (or, as the case may be, shall cease to apply):
 - (i) to the extent that amounts of any loans guaranteed by the German Guarantor are lent, on-lent or otherwise passed on to the German Guarantor and such amounts lent, on-lent or otherwise passed on have not been returned prior to the time of the intended enforcement;
 - (ii) if and to the extent the enforcement of the Guarantee will result in a fully valuable recourse claim (*vollwertiger Rückgriffsanspruch*) of the Guarantor within the meaning of sentence 2 of paragraph 1 of section 30 of the German Act on Limited Liability Companies (*GmbH-Gesetz*) against any Obligor;
 - (iii) in case of the German Guarantor's Net Assets being less than (or to fall further below) the respective registered share capital as referred to in Clause 2.10(a) above, if and to the extent a domination agreement (*Beherrschungsvertrag*) and/or a profit absorption agreement (*Gewinnabführungsvertrag*) to which the German Guarantor is the dominated party (*beherrschendes Unternehmen*) is or becomes effective unless such fact does not result in the inapplicability of sentence 1 of paragraph 1 of section 30 of the German Act on Limited Liability Companies (*GmbH-Gesetz*);
 - (iv) if, at the time the Guarantee is invoked, limitations provided for in this Clause 2.10 are not required by law (including, interpretation of the law by jurisdiction of the supreme court) to prevent the managing directors of the respective German Guarantor from assuming personal liability pursuant to section 30 in conjunction with section 43 of the German Act on Limited Liability Companies (*GmbH-Gesetz*); in this regard, each German Guarantor confirms that prior to signing or entering into this Agreement it has examined the financing concept which is the basis for making available the funds under the Senior Finance Document and has come to the conclusion that at the time of assumption of the Guarantee a default of the payment claims of the Obligors under the Senior Finance Documents is unlikely; or
 - (v) if the relevant German Guarantor has not fully or timely complied with its obligations to submit the calculations pursuant to paragraphs (d) or (e) of this Clause 2.10 or, if it has not complied with its obligation to sell assets pursuant to paragraph (f) of this Clause 2.10.
- (g) No reduction of the amount enforceable under this Agreement in accordance with the limitations of this Clause 2.10 will prejudice the rights of the Secured Parties to continue enforcing the its claims under this Agreement (subject always to the operation of the limitation set out in this Clause 2.10 at the time of such enforcement) until full satisfaction of the secured claims.
- (h) The provisions of this Clause 2.10 shall apply in respect of a German Guarantor which is incorporated under the laws of Germany in the legal form of a German limited partnership with a limited liability company as general partner (a “**German LP Guarantor**”) *mutatis mutandis* which means that where in this Clause 2.10 reference is made to a German Guarantor such reference shall be read as a reference to the general partner of a German LP Guarantor.

3. Parallel Debt (Covenant to pay the Security Agent)

- (a) Subject to any limitation relating to any:
 - (i) guarantee given by a Guarantor; or

- (ii) any corresponding guarantee in any Senior Finance Document (together, the “**Guarantee Limitations**”), each Guarantor hereby irrevocably and unconditionally undertakes to pay the Security Agent amounts equal to any amounts owing from time to time by that Guarantor to any Secured Party under any Senior Finance Document as and when those amounts are due and payable.
- (b) Each Guarantor and the Security Agent acknowledges that the obligations of each Guarantor under paragraph (a) above are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Guarantor to any Secured Party under any Senior Finance Document (its “**Corresponding Debt**”), nor shall it constitute the Security Agent and any Secured Party as joint creditors of any Corresponding Debt, nor shall the amounts for which each Guarantor is liable under paragraph (a) above (its “**Parallel Debt**”) be limited or affected in any way by its Corresponding Debt, provided that:
 - (i) the Parallel Debt of each Guarantor shall be decreased and the Security Agent shall not demand payment to the extent that its Corresponding Debt has been paid or (in the case of guarantee obligations) discharged; and
 - (ii) the Corresponding Debt of each Guarantor shall be decreased and the Security Agent shall not demand payment to the extent that its Parallel Debt has been paid or (in the case of guarantee obligations) discharged.
- (c) For the purpose of this this Clause 3, the Security Agent acts in its own name and not as a trustee, and its claims in respect of the Parallel Debt shall not be held on trust and instead shall be owed to it in its individual capacity. The Security granted under the Transaction Security Documents to the Security Agent to secure the Parallel Debt is granted to the Security Agent in its capacity as Parallel Debt Creditor and shall not be held on trust.
- (d) Without limiting or affecting the Security Agent’s rights against the Guarantors (whether under this this Clause 3 or under any other provision of the Senior Finance Documents, each Guarantor acknowledges that:
 - (i) nothing in this Clause 3 shall impose any obligation on the Security Agent to pay any sum to any Guarantor or otherwise under any Senior Finance Document, except in its capacity as Security Agent; and
 - (ii) for the purpose of any vote taken under any Senior Finance Document, the Security Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as Security Agent.
- (e) The obligations of each Guarantor under this Clause 3 shall be subject to any Guarantee Limitations *mutatis mutandis* applicable to such Guarantor.

4. Representations and Warranties

4.1 General

The Issuer and each Original Guarantor makes the representations and warranties set out in Clause 4 on the date of this Agreement and the Issuer and each Original Guarantor acknowledges that the Secured Parties have agreed to extend credit to the Obligor and to accept this Agreement in reliance on those representations and warranties.

4.2 Status

- (a) It is a limited liability corporation or a limited partnership, as applicable, duly incorporated or established, as applicable, and validly existing and registered under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

4.3 Binding Obligations

Subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations in accordance with its terms and no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render this Agreement enforceable against it.

4.4 Non-conflict with other Obligations

The entry into and performance by it of this Agreement does not and will not conflict with the provisions of:

- (a) any law, regulation or official or judicial order applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets to an extent which has or is reasonably likely to have a Material Adverse Effect.

4.5 Power and Authority

It has the power to enter into this Agreement and to exercise its rights and perform its obligations under this Agreement and all corporate and other action required to authorise its execution of this Agreement, its exercise of such rights and its performance of such obligations has been duly taken.

4.6 Validity and Admissibility in Evidence

All acts, conditions and things required to be done, fulfilled and performed in order:

- (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this Agreement;
- (b) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (c) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding,

have been obtained or effected and are in full force and effect.

4.7 No Winding-Up

It has not taken any corporate action nor have any other steps been taken or legal proceedings been started or threatened against it for its winding-up, dissolution, administration or reorganisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues, other than a winding-up petition which is frivolous or vexatious and is reasonably expected to be discharged, stayed or dismissed within twenty (20) Business Days of commencement.

4.8 No Default

It is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which might have a Material Adverse Effect.

4.9 Repetition

The representation and warranties set out in Clauses 4.2 (*Status*) to Clause 4.8 (*No Default*) are deemed to be made by the Issuer and each Guarantor on each date on which there are any outstanding Secured Obligations with reference to the facts and circumstances then existing.

5. Undertakings

5.1 Authorisations

Each Guarantor shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required in or by the laws and regulations of its jurisdiction of incorporation to enable it lawfully to enter into and perform its obligations under this Agreement and, subject to the Legal Reservations, to ensure the legality, validity, enforceability and admissibility in evidence in its jurisdiction of incorporation.

5.2 Notification of Misrepresentation

The Issuer or the relevant Guarantor shall notify the Super Senior Agent and the Security Agent of the occurrence of any event which results in or may reasonably be expected to result in any of the representations made in Clause 4 (*Representations and Warranties*) being untrue when made or when deemed to be repeated.

5.3 *Pari Passu* Claims

Under the laws of its jurisdiction of incorporation, each Guarantor shall ensure that the unsecured claims of the Secured Parties against it under this Agreement will rank at least *pari passu* with the claims of all its other unsecured creditors save those whose claims are mandatorily preferred.

5.4 Further Assurance

Each Guarantor shall take all such action as is available to it (including making all filings and registrations) as may be necessary, and shall promptly do all such acts or execute all such documents as the Super Senior Agent or the Security Agent may reasonably specify, for the purpose of the creation, perfection, protection or maintenance of the Agreement.

6. Changes to the Guarantors

6.1 Additional Guarantors

- (a) The Issuer may request that any of its Subsidiaries becomes an Additional Guarantor.
- (b) That Subsidiary shall become an Additional Guarantor if:
 - (i) the Issuer and that Subsidiary deliver to the Super Senior Agent and the Security Agent a duly completed and executed Accession Letter; and
 - (ii) the Super Senior Agent and the Security Agent have received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Super Senior Agent and the Security Agent (acting reasonably).
- (c) Each of the Super Senior Agent and the Security Agent shall notify the Issuer promptly upon being satisfied that it has received (in form and substance satisfactory to it acting reasonably) all the documents and other evidence listed in Schedule 2 (*Conditions precedent*).

- (d) For the avoidance of doubt, the Super Senior Agent and the Security Agent may agree with the Issuer that the requirements under paragraph (b)(ii) above are to be delivered and/or satisfied at a date later than the date on which the relevant entity becomes an Additional Guarantor.

6.2 Resignation of a Guarantor

- (a) Subject to paragraph (b) below, the Issuer may request that a Guarantor ceases to be a Guarantor by delivering to the Super Senior Agent and Security Agent a Resignation Letter if the relevant Guarantor, or its Holding Company, is subject to a Non-Distressed Disposal.
- (b) The Super Senior Agent and the Security Agent shall accept a Resignation Letter and notify the Issuer and the Secured Parties of its acceptance if the requirement stipulated by the Super Senior Documents and the Intercreditor Agreement for a release of a Guarantor are satisfied.
- (c) Each resignation shall become effective upon the counter signing of the Resignation Letter by the Super Senior Agent and the Security Agent.

6.3 Release of Guarantors' Right of Contribution

If any Guarantor (a “**Retiring Guarantor**”) ceases to be a Guarantor in accordance with the terms of this Agreement then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under this Agreement; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under this Agreement to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

7. Payments

7.1 Grossing Up

Each payment made by a Guarantor to the Secured Parties under this Agreement shall be made free and clear of and without deduction for or on account of Tax unless such Guarantor is required to make such payment subject to the deduction or withholding of Tax, in which case the sum payable by that Guarantor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Secured Parties receive and retain (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

7.2 Payments without Set-Off

All payments to be made by a Guarantor under this Agreement shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim unless the counterclaim is undisputed or has been confirmed in a final non-appealable judgement.

7.3 Manner of Payment

Each payment made by a Guarantor under this Agreement shall be paid to such account in a principal financial centre in any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union and with such bank as the Super Senior Agent or the Security Agent, in each case, specifies from time to time. Euro is the currency of payment for any sum due from a Guarantor under this Agreement.

8. Costs and Expenses

8.1 Stamp Taxes

Each Guarantor shall promptly on demand pay all stamp, registration and other taxes to which this Agreement or any judgment given in connection with this Agreement is or at any time may be subject and shall on demand indemnify the Secured Parties against any liabilities, costs, claims and expenses (including legal fees) resulting from any failure to pay or delay in paying any such tax.

8.2 Indemnity

Each Guarantor shall indemnify and hold harmless the Secured Parties on demand from and against any and all costs, claims losses, expenses (including legal fees) and liabilities, which the Secured Parties may incur as a result of the preservation and/or enforcement by the Secured Parties of any of their rights and powers under this Agreement or by law.

9. Remedies and Waivers

Neither failure by the Secured Parties to exercise, nor any delay by the Secured Parties in exercising, any right or remedy under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof or the exercise of any other such right or remedy.

10. Additional Provisions

10.1 Partial Invalidity

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect or this Agreement is or becomes ineffective in any respect under the law of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement or the effectiveness in any other respect of this Agreement under such law; or
- (b) the legality, validity or enforceability of such provision or the effectiveness of this Agreement under the law of any other jurisdiction.

10.2 Currency Indemnity

If any sum due from a Guarantor under this Agreement or any order or judgment given or made in relation to this Agreement has to be converted from the currency (the “**first currency**”) in which the same is payable under this Agreement or under such order or judgment into another currency (the “**second currency**”) for the purpose of:

- (a) making or filing a claim or proof against that Guarantor;
- (b) obtaining an order or judgment in any court or other tribunal; or

(c) enforcing any order or judgment given or made in relation to this Agreement,

each Guarantor shall on demand indemnify and hold harmless the Secured Parties from and against any loss suffered or incurred as a result of any discrepancy between (i) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (ii) the rate or rates of exchange at which the Secured Parties may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof.

10.3 Rights Cumulative

The rights and remedies provided by this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

11. Assignments and Transfers

11.1 The Guarantors' Rights and Obligations

The rights and obligations of the Guarantors under this Agreement are not assignable or transferable and no Guarantor shall purport to assign or transfer any or all such rights or obligations.

11.2 The rights of the Secured Parties

The rights of the Secured Parties under this Agreement are assignable in whole or in part and each Secured Party may assign all or any such rights without the consent of any of the Guarantors in the event that such Secured Party transfers any of its rights and obligations under the Senior Finance Documents to a eligible transferee.

12. Amendments

Amendments of this Agreement will only be effective if agreed to by all parties in writing.

13. Notices

13.1 Communications in Writing

Any notice or other communication to be made under or in connection with this Agreement shall be made in accordance with and be subject to the terms of Clause 26.1 (*Notices*) of the Terms & Conditions. Any notice or other communication made to a Guarantor shall be deemed received by such Guarantor if made to the Issuer in accordance with Clause 26.2 (c) (*Notices*) of the Terms & Conditions.

13.2 English Language

Each communication and document made or delivered by one party to another pursuant to this Agreement shall be in English or accompanied by a translation into English which is certified (by an officer of the person making or delivering the same) as being a true and accurate translation.

14. Counterparts

This Agreement may be executed in counterparts and such counterparts taken together shall constitute one and the same instrument.

15. Governing Law and Jurisdiction

- (a) Subject to paragraph (b) below, this Agreement, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of the Federal Republic of Germany.
- (b) The submission to the jurisdiction of the German courts shall not limit the right of the Security Agent to take proceedings against the Issuer or a Guarantor in any court which may otherwise exercise jurisdiction over the Issuer, a Guarantor or any of their assets.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule 1

Original Guarantors

Name of Original Guarantor	Registration number (or equivalent, if any)	Jurisdiction
Barry's Bootcamp GmbH	Commercial register of the local court of Frankfurt am Main, HRB 115552	Germany
elbgym GmbH	Commercial register of the local court of Hamburg, HRB 154843	Germany
Fitness First Germany GmbH	Commercial register of the local court of Frankfurt am Main, HRB 30512	Germany
smile X InterCo GmbH	Commercial register of the local court of Saarbrücken, HRB 102812	Germany
MKS Sport GmbH	Commercial register of the local court of Saarbrücken, HRB 17279	Germany
MKS Sport 3 GmbH	Commercial register of the local court of Saarbrücken, HRB 19353	Germany
smilefit SLS GmbH & Co. KG	Commercial register of the local court of Saarbrücken, HRA 11482	Germany
smilefit I-O GmbH & Co. KG	Commercial register of the local court of Bad Kreuznach, HRA 20136	Germany

Schedule 2

Conditions Precedent

1. An Accession Letter executed by the parties thereto.
2. A copy of the constitutional documents of the Additional Guarantor.
3. To the extent required by law, a copy of a resolution of the board of directors or equivalent body of the Additional Guarantor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Letter and resolving that it execute, deliver and perform the Accession Letter;
 - (b) authorising a specified person or persons to execute on its behalf the Accession Letter; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Accession Letter.
4. A copy of the passport, driver's license, identity card or specimen signature of each person authorised by the resolution referred to in paragraph 3 above.
5. To the extent required by law, a copy of a resolution signed by all the holders of the issued shares in each Additional Guarantor approving the terms of, and the transactions contemplated by, the Accession Letter.
6. A certificate of an authorised signatory of the relevant Additional Guarantor certifying that each copy document relating to it and specified in this Schedule 2 as being delivered by it is a correct and complete copy of the original and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Letter.
7. Legal opinion(s) addressed to the Super Senior Agent and the Security Agent (on behalf of the Secured Parties) from the legal advisers to the Super Senior Agent or the Security Agent in the relevant jurisdiction(s).
8. Such documentation and other evidence needed for the Super Senior Agent, the Security Agent or any Secured Party to carry out and be satisfied it has complied with all necessary “*know your customer*” or other similar checks under all applicable laws and regulations in respect of the Additional Guarantor.
9. Such documentation and other evidence reasonably required by the Super Senior Agent or the Security Agent (on behalf of itself or the other Secured Parties) within what may be considered reasonable prior notice.

Schedule 3

Form of Accession Letter

To: Oldenburgische Landesbank Aktiengesellschaft as Super Senior Agent and Nordic Trustee & Agency AB (publ) as Security Agent (each on behalf of the Secured Parties represented by it)

From: [Subsidiary] and LifeFit Group MidCo GmbH

Dated: [◆]

**LifeFit Group MidCo GmbH
Guarantee Agreement dated [◆]
(the “Agreement”)**

1. We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. [Subsidiary] agrees to become an Additional Guarantor and to be bound by the terms of the Agreement as an Additional Guarantor pursuant to Clause 6.1 (*Additional Guarantors*) of the Agreement.
3. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] with the following contact details:
 - Address: [◆]
 - E-mail: [◆]
 - Attention: [◆]
4. [Any limitation language required in respect of the Subsidiary.]
5. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by German law.

LifeFit Group MidCo GmbH

By:

[Subsidiary]

By:

Accepted by the Super Senior Agent on [◆]

Oldenburgische Landesbank Aktiengesellschaft

By:

Accepted by the Security Agent on [◆]

Nordic Trustee & Agency AB (publ)

By:

Schedule 4

Form of Resignation Letter

To: Oldenburgische Landesbank Aktiengesellschaft as Super Senior Agent and Nordic Trustee & Agency AB (publ) as Security Agent (on behalf of the Secured Parties)

From: [*resigning Guarantor*] and LifeFit Group MidCo GmbH

Dated: [◆]

LifeFit Group MidCo GmbH
Guarantee Agreement dated [◆]
(the “Agreement”)

1. We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to Clause 6.2 (*Resignation of a Guarantor*) of the Agreement, we request that [*resigning Guarantor*] be released from its obligations as a Guarantor under the Agreement
3. We confirm that:
 - (a) no Event of Default is continuing or would result from the acceptance of this request;
 - (b) no payment is due from [*resigning Guarantor*] under the Agreement;
 - (c) [*resigning Guarantor*] is not a Material Group Company (as defined in the Terms & Conditions); and
 - (d) immediately following the resignation of [*resigning Guarantor*] as a Guarantor, the Issuer will remain in compliance with Clause 6.2 (c) (iii) (*Guarantees*) of the Terms & Conditions.
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by German law.

LifeFit Group MidCo GmbH

By:

[*resigning Guarantor*]

By:

Accepted by the Super Senior Agent on [◆].
Oldenburgische Landesbank Aktiengesellschaft

By:

Accepted by the Security Agent on [♦].

Nordic Trustee & Agency AB (publ)

By:

Signature Page

The Issuer

LifeFit Group MidCo GmbH

Name:
Title:

Name:
Title:

The Original Guarantors

Barry's Bootcamp GmbH

Name:
Title:

Name:
Title:

elbgym GmbH

Name:
Title:

Name:
Title:

Fitness First Germany GmbH

Name:
Title:

Name:
Title:

smile X InterCo GmbH

Name:
Title:

Name:
Title:

MKS Sport GmbH

Name:
Title:

Name:
Title:

MKS Sport 3 GmbH

Name:
Title:

Name:
Title:

smilefit SLS GmbH & Co. KG
represented by its general partner []

Name:
Title:

Name:
Title:

smilefit I-O GmbH & Co. KG
represented by its general partner []

Name:
Title:

Name:
Title:

The Security Agent

Nordic Trustee & Agency AB (publ)

Name:
Title:

Name:
Title: