

# MR01

## Particulars of a charge

233134113



**A fee is payable with this form**  
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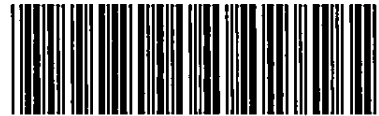
**What this form is for**  
You may use this form to register a charge created or evidenced by an instrument

**What this form is NOT for**  
You may not use this form to register a charge where there is no instrument Use form MR00

For further information, please refer to our guidance at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form **must be delivered to the Registrar for registration 21 days** beginning with the day after the date of creation of the delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

You **must** enclose a certified copy of the instrument with this form scanned and placed on the public record **Do not send the original**



A09 \*A45RTTCZ\* #157  
21/04/2015  
COMPANIES HOUSE

TUESDAY

### 1 Company details

Company number 0 0 2 2 9 6 0 6

Company name in full BHS Limited ✓

For official use  
→ **Filing in this form**  
Please complete in typescript or in bold black capitals  
All fields are mandatory unless specified or indicated by \*

### 2 Charge creation date

Charge creation date d1 d5 m0 m4 y2 y0 y1 y5 ✓

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees entitled to the charge

Name HSBC Bank plc ✓

Name

Name

Name

If there are more than four names, please supply any four of these names then tick the statement below

I confirm that there are more than four persons, security agents or trustees entitled to the charge

MR01  
Particulars of a charge

**4** Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

252/258 Oxford Street and 16/17 John Princes Street, London W1C 1DL registered under title number NGL816029 ✓  
2-4 Guildhall Square, Carmarthen SA31 1PN registered under title number WA867566 For more details please refer to the English Mortgage over Property ✓

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

**5** Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

Yes

No



**6** Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

Yes Continue

No Go to Section 7



Is the floating charge expressed to cover all the property and undertaking of the company?

Yes

**7** Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

Yes

No



**8** Trustee statement <sup>1</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

**9** Signature

Please sign the form here

Signature

Signature

X HOGAN LOVELLS INTERNATIONAL LLP X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record

Contact name F3A/SHAHKUNAL - 4527461

Company name Hogan Lovells International LLP

Address Atlantic House

Holborn Viaduct

Post town London

County/Region

Postcode 

E	C	1	A	2	F	G
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Country United Kingdom

DX 57 London Chancery Lane

Telephone +44 (20) 7296 2000



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank



### Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following:

- The company name and number match the information held on the public Register
- You have included a certified copy of the instrument with this form
- You have entered the date on which the charge was created
- You have shown the names of persons entitled to the charge
- You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- You have given a description in Section 4, if appropriate
- You have signed the form
- You have enclosed the correct fee
- Please do not send the original instrument, it must be a certified copy



### Important information

Please note that all information on this form will appear on the public record



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper

Make cheques or postal orders payable to 'Companies House'



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

#### For companies registered in England and Wales\*

The Registrar of Companies, Companies House, Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

#### For companies registered in Scotland

The Registrar of Companies, Companies House, Fourth floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

#### For companies registered in Northern Ireland

The Registrar of Companies, Companies House, Second Floor, The Linenhall, 32-38 Linenhall Street, Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

CHFP025

06/14 Version 2.0



DX

**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 229606

Charge code: 0022 9606 0044

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th April 2015 and created by BHS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st April 2015.

Given at Companies House, Cardiff on 28th April 2015



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED 15 April

2015

(1) BHS LIMITED

- and -

(2) BHS PROPERTIES LIMITED

- and -

(3) HSBC BANK PLC

**ENGLISH MORTGAGE OVER  
PROPERTY**

Save for material redacted pursuant to s559G of the  
Companies Act 2006, I certify that this is a true and  
complete copy of the composite original seen by me

~~F. Prenderfer~~

Name: Fiona Prenderfer

Title: Solicitor

Date: 20 April 2015

Hogan Lovells International LLP (Ref \_\_\_\_\_)  
Atlantic House, Holborn Viaduct, London EC1A 2FG

Give for material retained pursuant to 282C of the  
Companies Act 2006, I certify that this is a true and  
complete copy of the composite original seen by me

.....

Name: \_\_\_\_\_  
Title: Director

Date: \_\_\_\_\_

Hogan Lovells International LLP (Ref: \_\_\_\_\_)  
Atlantic House, Holborn Viaduct, London EC1A 3FB

THIS ENGLISH MORTGAGE OVER PROPERTY is made on 15 April

2015

**BETWEEN**

- (1) **BHS LIMITED** a company incorporated in England and Wales with company number 00229696 whose registered address is at 129-137 Marylebone House, Marylebone Road, London, N1 5QD and **BHS PROPERTIES LIMITED** a company incorporated in England and Wales with company number 02139762 whose registered address is at 129-137 Marylebone House, Marylebone Road, London, N1 5QD (each a **Chargor** and together, the **Chargors**)
- (2) **HSBC BANK PLC** (the **Lender**)

**BACKGROUND**

- 1 The Lender has advanced the Loan to the Borrower pursuant to the terms of the Facility Agreement
- 2 Pursuant to schedule 4 (*Conditions Subsequent*), paragraph 6(a)(i)(A) of the Facility Agreement, an English Mortgage over Property (as defined in the Facility Agreement) must be duly executed by the parties to it, within 15 Business Days from and including the date of the Facility Agreement

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this English Mortgage over Property

**Borrower** means BHS Group Limited a company incorporated in England and Wales with company number 03858895 whose registered address is at 129-137 Marylebone House, Marylebone Road, London, N1 5QD

**Facility Agreement** means the term loan facility agreement dated 26 March 2015 and made between, amongst others the **Chargors** and the **Lender** as the same may be amended, varied, supplemented or restated from time to time,

**Lease** means any lease, underlease, tenancy, licence or other right of occupation to which the Property is from time to time subject together with any related guarantee or other security for the performance of the lessee's obligations,

**Material Agreements** means each contract in respect of any disposal of any Security Asset, including any guarantees or sureties entered into in respect of them,

**Property** means each and all of the Properties set out in Schedule 1 subject to the Security Interests created by any **Chargor** in favour of the **Lender** forming part of the Security Assets and "**Property**" shall be construed accordingly,

**Receiver** means an administrative receiver, a receiver and/or manager of any or all of any **Chargor's** assets appointed by the **Lender** under the Security,

**Secured Liabilities** means all monies from time to time due or owing and all other actual or contingent liabilities from time to time incurred by the **Borrower** and the **Guarantors** to the **Lender**,

**Security** means the Security Interests created or intended to be created by or pursuant to this English Mortgage over Property,

**Security Assets** means all of any **Chargor's** assets from time to time the subject of Security,

**Security Interest** means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

## **1.2 Interpretation**

- (a) Unless a contrary indication appears, any reference in this English Mortgage over Property to
  - (i) **assets** includes present and future properties, revenues and rights of every description,
  - (ii) the **Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees,
  - (iii) a **disposal** includes a lease, licence, transfer, sale or other disposal of any kind,
  - (iv) **includes** or **including** shall be read and construed as including the phrase **without limitation**,
  - (v) this **English Mortgage over Property** or any other agreement or instrument is a reference to this English Mortgage over Property, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases any Chargor's obligations or provides for further advances),
  - (vi) a provision of law is a reference to that provision as amended or re-enacted,
  - (vii) the singular includes the plural and vice versa, and
  - (viii) any real property includes
    - (A) all or any part of it,
    - (B) all buildings, fixtures (including trade fixtures), fittings and fixed plant or machinery at any time on that property,
    - (C) all easements, servitudes, rights and agreements in respect of that property,
    - (D) all rents from and proceeds of sale of that property, and
    - (E) the benefit of all covenants given in respect of that property
- (b) When any provision of this English Mortgage over Property refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing
- (c) References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this English Mortgage over Property
- (d) Clause headings are for ease of reference only and shall not affect the construction of this English Mortgage over Property
- (e) If the Lender reasonably considers that an amount paid by any Chargor is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of any Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this English Mortgage over Property



- (f) Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Deed, the same meaning in this Deed

**13 Third party rights**

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this English Mortgage over Property

**14 Law of Property (Miscellaneous Provisions) Act 1989**

The terms of all other documents entered into between any Chargor and the Lender are incorporated in this English Mortgage over Property to the extent required to ensure that any disposition of the Property contained in this English Mortgage over Property is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

**15 Delivery**

The parties intend this English Mortgage over Property to be delivered on the first date specified on page 1 of this English Mortgage over Property and that this English Mortgage over Property shall take effect as a deed notwithstanding the fact that the Lender may only execute this English Mortgage over Property under hand

**1.6 Joint and several Chargors**

Where two or more persons purport to create a Security Interest over a Security Asset under this English Mortgage over Property then

- (a) they (or such of them as have the joint interest in the relevant Security Asset) shall be deemed to have jointly mortgaged, charged and/or assigned, as appropriate, their joint interest in the relevant Security Asset,
- (b) each person shall be deemed to have mortgaged, charged and/or assigned, as appropriate, its individual interest (if any) in the relevant Security Asset, and
- (c) each person shall be deemed to have confirmed the Security granted by the others

**17 Joint and several liability**

Each of the Chargors is joint and severally liable for any Chargor's failure to perform its obligations pursuant to this English Mortgage over Property. A default by one Chargor under this English Mortgage over Property shall be deemed to be a default by them all

**2. LIMITED RECOURSE**

Notwithstanding any other provision of the Finance Documents, it is expressly agreed and understood that

- (a) the sole recourse of the Lender to any Chargor under this deed is to any Chargor's interest in the Property, and
- (b) the liability of any Chargor to the Lender pursuant to or otherwise in connection with the Finance Documents shall be
  - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this English Mortgage over Property with respect to the Property, and
  - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Property pursuant to this English Mortgage over Property

### 3 SECURITY

#### Nature of security

All Security and dispositions created or made by or pursuant to this English Mortgage over Property are created or made in favour of the Lender with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the discharge of the Secured Liabilities

### 4 FIXED SECURITY

#### 4.1 Fixed charges

Each Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by it, or in which it from time to time has an interest

- (a) by way of first legal mortgage, the Property,
- (b) by way of first fixed charge
  - (i) the proceeds of sale of the Property, and
  - (ii) the benefit of any rental deposit given or charged to any Chargor by any occupier of the Property,
- (c) by way of first fixed charge (insofar as not mortgaged by clause 4.1(a) or charged by clause 4.1(b)) all present and future rents and other sums due to any Chargor under any Lease,
- (d) by way of first fixed charge all plant and machinery relating to the Property (insofar as not mortgaged by clause 4.1(a) or charged by clause 4.1(b)) and the benefit of all contracts, licences and warranties relating to the same,
- (e) by way of first fixed charge (to the extent not otherwise charged or assigned in this English Mortgage over Property), its interest in the Material Agreements, and
- (f) to the extent that any asset expressed to be assigned pursuant to clause 4.2 (Security assignments) is not effectively assigned under that clause, by way of first fixed charge, such asset

#### 4.2 Security assignments

- (a) Each Chargor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all of its present and future right, title and interest in and to
  - (i) (to the extent not mortgaged or charged by clause 4.1 (*Fixed charges*)) all present and future rents and other sums due to the relevant Chargor under any Lease,
  - (ii) each Material Agreement together with all rights and remedies in connection with each Material Agreement and all proceeds and claims arising from them,
  - (iii) all insurance policies, claims under those insurance policies and all proceeds of those claims under the insurance policies relating to the Property,
  - (iv) the benefit of all rights, guarantees, Security Interests and remedies relating to any of the foregoing, and
  - (v) all proceeds of any of the foregoing not otherwise assigned under this clause 4.2

- (b) To the extent that any right referred to in clause 4 2(a) is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all each Chargor's present and future rights and claims to any proceeds of such rights

#### 4 3 Notice of Security

- (a) Each Chargor must give notice of the grant of the Security
  - (i) within 1 month of the date of this Deed, to each tenant under a Lease (if any) in the form set out in schedule 2 (*Form of notice of assignment or charge of Contract*), and
  - (ii) promptly upon the date of this Deed, to each insurer under any insurance policy in which it has an interest in the form set out the schedule 3 (*Form of notice of assignment of Insurance*),

and it shall use its reasonable endeavours to procure that the recipient of each notice acknowledges it in writing

- (b) A notice pursuant to clause 4 3(a) must be given
  - (i) in the prescribed forms attached to this English Mortgage over Property, and
  - (ii) promptly after the entry into a new Lease, or insurance policy after the date of this English Mortgage over Property

#### 4 4 Restriction

- (a) Each Chargor authorises the Lender to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estate

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●]2015 in favour of HSBC Bank plc referred to in the Charges Register (or its conveyancer)*

- (b) Each Chargor authorises the Lender to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estate

#### 4 5 Preservation of assets

The Lender is not obliged to take any steps necessary to preserve any Chargor's assets, to enforce any term of any contract or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this English Mortgage over Property

### 5. NEGATIVE PLEDGE

- (a) No Chargor shall create or permit to subsist any Security Interest over the Security Assets other than the Security without the consent of the Lender
- (b) Sub Paragraph 5(a) above shall not apply to
  - (i) any lien arising by operation of law and in the ordinary course of day to day business,
  - (ii) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar

effect in respect of goods supplied to an Obligor in the ordinary course of day to day business and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Obligor,

- (iii) any Security created over an escrow account set up for the purpose of a disposal of an asset, or
- (iv) any floating charge security created by a member of the BHS Group in favour of the Corporate Guarantor

## **6. FURTHER ASSURANCE**

Each Chargor shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for

- (a) giving effect to, perfecting or protecting the Security,
- (b) facilitating the realisation of any Security Asset,
- (c) facilitating the exercise of all powers, authorities and discretions vested in the Lender or in any Receiver, or
- (d) perfecting any Security over any assets acquired by any Chargor after the date of this English Mortgage over Property

## **7. ENFORCEMENT**

### **7.1 Remedying defaults**

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by any Chargor to observe and perform the provisions of this English Mortgage over Property at that Chargor's cost

### **7.2 Timing of enforcement**

- (a) The Secured Liabilities are deemed to have become due on the date of this English Mortgage over Property
- (b) The Security shall become enforceable on the earlier of
  - (i) the date the Lender demands repayment of any of the Secured Liabilities, or
  - (ii) any Chargor's request
- (c) Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this English Mortgage over Property

### **7.3 Powers of the Lender**

- (a) At any time after the Security becomes enforceable or if requested by any Chargor, the Lender may without further notice (unless required by law)
  - (i) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets, and/or
  - (ii) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this English Mortgage over Property) and/or

all or any of the powers which are conferred by this English Mortgage over Property on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver

- (b) The Lender is not entitled to appoint a Receiver in respect of any Security Assets which are subject to Security which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 or anything done with a view to obtaining such a moratorium

#### **7.4 No liability**

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Security Assets for any loss on realisation or for any other default or omission. No exercise of the right in clause 7.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession.

### **8. RECEIVER**

#### **8.1 Removal and replacement**

The Lender may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

#### **8.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

#### **8.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender).

#### **8.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

#### **8.5 Chargor's agent**

Any Receiver shall be the relevant Chargor's agent and that Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to any Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **9 POWERS OF RECEIVER**

#### **9.1 General powers**

- (a) Any Receiver shall have
  - (i) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act,

- (ii) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986, and
- (iii) all powers which are conferred by any other law conferring power on receivers

## 9 2 Additional powers

In addition to the powers referred to in clause 9 1 (*General powers*), a Receiver shall have the following powers

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed,
- (b) to manage the Security Assets and any Chargor's business as he thinks fit,
- (c) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise,
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation
  - (i) fixtures may be severed and sold separately from the Property containing them, without any Chargor's consent,
  - (ii) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party), and
  - (iii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit,
- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to abandon, complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which any Chargor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land),
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in any Chargor's name and, for that purpose, to enter into covenants and other contractual obligations in any Chargor's name and so as to bind any Chargor,
- (g) to take any such proceedings in any Chargor's name as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment),
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit,
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Lender shall direct),
- (j) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ any firm, partner, company or other entity with which he is associated),

- (k) to form one or more subsidiaries of any Chargor and to transfer to any such subsidiary all or any part of the Security Assets,
- (l) to operate any rent review clause in respect of any Property in respect of which he was appointed and to apply for any new or extended lease, and
- (m) to
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset,
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets, and
  - (iii) use any Chargor's name for any of the above purposes

### 9.3 Limitation

- (a) The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver
- (b) The Receiver shall be under no duty to any Chargor to exercise any power he may have and shall not incur any liability to any Chargor either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers

## 10. APPROPRIATION OF RECEIPTS

### 10.1 Application

- (a) Subject to clause 10.2 (*Suspense account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority
  - (i) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment,
  - (ii) in or towards payment or discharge of the Secured Liabilities, and
  - (iii) in payment of the surplus (if any) to the relevant Chargor or other person entitled to it
- (b) The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by any Chargor

### 10.2 Suspense account

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent

## 11. CURRENCY CONVERSION

All monies received or held by the Lender or any Receiver under this English Mortgage over Property may be converted from their existing currency into such other currency as the Lender or the Receiver

considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange

## **12. NEW ACCOUNT**

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Security Assets or their proceeds of sale, then the Lender may open a new account for any Chargor. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Lender for any Chargor's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

## **13. DELEGATION AND APPOINTMENT OF ATTORNEYS**

### **13.1 Delegation**

- (a) The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this English Mortgage over Property. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit.
- (b) The Lender shall not be liable or responsible to any Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates.

### **13.2 Attorneys**

- (a) By way of security, each Chargor irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under clause 13.1 (*Delegation*) separately to be its attorney on its behalf, in its name:
  - (i) to execute and do any documents, acts and things which it is required to execute and do under this English Mortgage over Property or any other document relating to the Secured Liabilities, and
  - (ii) to execute and do any documents, acts and things which any attorney may deem proper in exercising any powers, authorities and discretions conferred by this English Mortgage over Property any documents relating to the Secured Liabilities or by law on the Lender or any Receiver.
- (b) Each Chargor ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 13.2 (*Attorneys*).

## **14. REDEMPTION OF PRIOR SECURITY INTERESTS**

### **14.1 Redemption**

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at any Chargor's cost.

### **14.2 Costs of redemption**

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under clause 14.1 (*Redemption*) shall be paid by any Chargor within 3 Business Days of demand, in each case together with interest calculated and in the manner referred to in clause 18 (*Indemnities*).



## 15. RELEASES

### 15.1 Discharge

If the Lender is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargors, discharge this Deed

### 15.2 Releases conditional

- (a) Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this clause 15 (*Releases*), a release) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency
- (b) If any avoidance, reduction, or clawback occurs or any order is made as referred to in clause 15.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between each Chargor and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as Security for the Secured Liabilities

### 15.3 Retention

- (a) If and for so long as any assurance, security or payment as is mentioned in clause 15.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this English Mortgage over Property as Security for the Secured Liabilities after they have been paid and discharged in full
- (b) If, at any time while all or part of the Lender's rights under this English Mortgage over Property are so retained
  - (i) an application is made to a competent court for a winding-up order to be made in respect of any Chargor,
  - (ii) steps are taken to wind any Chargor up,
  - (iii) an application is made to a competent court for an administration order to be made in respect of any Chargor,
  - (iv) a notice of intention to appoint an administrator to any Chargor is filed at court, or
  - (v) the appointment of an administrator to any Chargor takes effect,

then the Lender may continue to retain all or part of its rights under this English Mortgage over Property for any further period as the Lender may determine in its absolute discretion

## 16. CONTINUING SECURITY

### 16.1 Continuing security

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding

- (a) intermediate payment or discharge of the whole or part of the Secured Liabilities,

- (b) any Chargor's liquidation or other incapacity or any change in its constitution, name or style,
- (c) any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person, or
- (d) any other event, matter or thing

**16.2 Additional to other rights**

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by any Chargor or otherwise) in favour of the Lender. Accordingly, any Chargor's liability under this English Mortgage over Property shall not be prejudiced or affected by, and this English Mortgage over Property may be enforced notwithstanding

- (a) the existence or invalidity of all or any of those rights, or
- (b) at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights

**17 THIRD PARTY PROTECTION**

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned

- (a) to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged,
- (b) whether the power which the Lender or Receiver is purporting to exercise has become exercisable, or
- (c) to see to the application of any money paid to the Lender or to a Receiver

**18. INDEMNITIES**

Each Chargor agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) within 3 Business Days of demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver)

- (a) as a result of any Chargor's failure to perform any of its obligations under this English Mortgage over Property,
- (b) in the exercise of any of the powers or other rights conferred by this English Mortgage over Property,
- (c) in respect of any costs, charges or expenses incurred in connection with clause 11 (*Currency conversion*),
- (d) in respect of the redemption of any prior Security Interest over any Security Asset under clause 14 (*Redemption of prior Security Interests*),
- (e) as a result of any Chargor's breach of any current or other obligation or matter relating to the Property, or
- (f) in respect of any other matter or thing done or omitted relating to the Security Assets

**19 CALCULATIONS AND CERTIFICATES**

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against any Chargor of the matters to which it relates

**20 PARTIAL INVALIDITY**

All the provisions of this English Mortgage over Property are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired

**21. REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this English Mortgage over Property against any Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law

**22 AMENDMENTS AND WAIVERS**

Any provision of this English Mortgage over Property may be amended only if the Chargors and the Lender agree in writing and any breach of this English Mortgage over Property may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender under this English Mortgage over Property will be effective only if given in writing and then only in the instance and for the purpose for which it is given

**23. TRANSFER**

- (a) The Lender may assign and/or transfer its rights and obligations under this English Mortgage over Property
- (b) No Chargor shall assign any of its rights or transfer any of its obligations under this English Mortgage over Property

**24. MANAGEMENT TIME**

The Lender reserves the right to charge for its management time or other resources (which will be calculated on the basis of such reasonable daily or hourly rates as the Lender may notify to the Chargors from time to time)

**25 COUNTERPARTS**

This English Mortgage over Property may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this English Mortgage over Property by executing a counterpart

**26. NOTICES**

**26.1 Communications in writing**

Any communication to be made under or in connection with this English Mortgage over Property shall be made in writing in the English language and, unless otherwise stated, must be made by letter

**26.2 Addresses**

The Lender may deliver any communication, document or notice to any Chargor relating to this English Mortgage over Property to its registered office, to any address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address any Chargor may notify to the Lender by not less than five business days' notice

**26.3 Delivery**

- (a) Save as set out in (b) below, any communication or document made or delivered by one person to another under or in connection with this English Mortgage over Property will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose)

**27 GOVERNING LAW**

This English Mortgage over Property and any non-contractual obligations arising out of or in connection with it are governed by English law

**28 ENFORCEMENT**

**28.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this English Mortgage over Property (including disputes regarding the existence, validity or termination of this English Mortgage over Property, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**)
- (b) Each Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary
- (c) This clause 28.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions

**IN WITNESS WHEREOF THE CHARGORS HAVE EXECUTED THIS ENGLISH MORTGAGE OVER PROPERTY AS A DEED** the year and date appearing on the first page of it

**SCHEDULE 1**

	<b>Properties</b>	<b>Title Number</b>	<b>Property Owner</b>
1	252/258 Oxford Street and 16/17 John Princes Street, London W1C 1DL	NGL816029	BHS Limited
2	57 Market Street and 79/83, 1A and Part 38 Arndale Shopping Centre, Manchester M1 1WN	GM512231 and GM389885	BHS Properties Limited
3	2-4 Guildhall Square, Carmarthen SA31 1PN	WA867566	BHS Limited
4	86/89 High Street West, Sunderland SR13DB	TY338045	BHS Properties Limited
5	40/44 & 44A North Street, Taunton TA1 1LX	ST164677	BHS Properties Limited
6	1/7 Victoria Street West and 7/9 Victoria Street, Freshney Place, Grimsby, DN31 1DF	HS14253 and HS185549	BHS Properties Limited

**SCHEDULE 2**

**FORM OF NOTICE OF ASSIGNMENT OR CHARGE OF CONTRACT**

From [insert details of chargor] (**Chargor**)

To [Details of Party to Contract]

Date [ ] 20[ ]

Dear Sirs

**[Description of Lease] (Contract)**

We refer to

- 1 the Contract, and
- 2 [English Mortgage over Property] (**English Mortgage over Property**) dated [ ] 20[ ] made between HSBC Bank plc (**Lender**) (1) and the Chargor (2)

We give you notice that pursuant to the English Mortgage over Property, we have assigned/charged all of our present and future right, title, interest and benefit in, under and to the Contract (including all [rent] payable to us under the Contract) to the Lender

We irrevocably and unconditionally instruct and authorise you

- 1 to make all payments in connection with the Contract as the Lender may direct Until you are notified otherwise by the Lender, the Lender directs such sums to be paid to [*insert Chargor bank details*],
- 2 that all our rights in connection with the Contract are exercisable by (or with the consent of) the Lender Until you are notified otherwise by the Lender, the Lender directs that all such rights powers, discretions and remedies shall continue to be exercisable by us, and
- 3 to disclose any information relating to the Contract which the Lender may from time to time request

No amendment, waiver or release of any right or obligation in connection with the Contract and no termination or rescission of the Contract by us shall be effective without the prior written consent of the Lender and in any event no such termination or rescission shall be effective unless you have given notice to the Lender

Notwithstanding anything in this notice or otherwise we (and not the Lender nor its appointees) shall be liable under the Contract to perform all the obligations assumed by us under it

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Lender together give you notice in writing revoking them

This letter shall be governed by and construed in accordance with the laws of England

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Lender

Signed for and on behalf of the Chargor

**Form of Acknowledgement**

**ACKNOWLEDGEMENT**

To HSBC Bank plc  
{insert address}

FAO {insert details of the Relationship Manager}

We, [Details of Party to the Contract ] hereby acknowledge receipt of a Notice of Assignment/Charge of Contracts from [insert details of Chargor] (Chargor) of which the attached is a copy (Notice)

We confirm that

- (a) we have not received notice of any other assignment of the interests described in the Notice,
- (b) we will not, without the prior written consent of the Lender, vary, rescind or otherwise alter or terminate the Contract or in any way prejudice the rights of the Lender and the beneficiaries under the Contract , and
- (c) we confirm that we will act in accordance with the instructions given by the Chargor in the Notice

For and on behalf of

[Details of Party to the Contract]

Dated [            ]



**SCHEDULE 3**

**FORM OF NOTICE OF ASSIGNMENT OF INSURANCE**

To {Insurer}

Date [            ] 20[    ]

Dear Sirs,

We give you notice that we have assigned and charged to HSBC Bank plc in its capacity as (Lender) pursuant to a English mortgage over property entered into by us in favour of the Lender dated [            ] 20[    ] all our right, title and interest in and to the proceeds of [*insert details of relevant insurance policy*] (the **Policy of Insurance**)

With effect from your receipt of this notice we instruct you to

- (1) following receipt of the Lender's written notification, make all payments and claims under or arising from the Policy of Insurance to the Lender [*insert an account number if required*] or to its order as it may specify in writing from time to time, and
- (2) disclose to the Lender, without further approval from us, such information regarding the Policy of Insurance as the Lender may from time to time request and to send it copies of all notices issued by you under the Policy of Insurance

This notice and any non-contractual obligations arising out of or in connection with it are governed by English law

Please acknowledge receipt of this notice (substantially in the form of the attached) by signing the acknowledgement on the enclosed copy letter and returning it to the Lender at HSBC Bank plc, [*insert address*] marked for the attention of [*insert details of the Relationship Manager*]

Yours faithfully,

for and on behalf of

**[INSERT CHARGOR'S DETAILS]**

[On copy only ]

To HSBC Bank plc  
[insert address]

FAO [insert details of the Relationship Manager]

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice

We further confirm that no amendment or termination of the Policy of Insurance shall be effective unless we have given the Lender thirty days written notice of it or, if it is not possible to comply with such notification to the Lender in accordance with the provisions of the relevant Policy of Insurance, the notice will be provided to the Lender in relation to such termination as soon as possible

This letter and any non-contractual obligations arising out of or in connection with it are governed by English law

For and on behalf of [Insurer]

By [ ]

Dated [ ]

EXECUTION PAGE

THE LENDER

SIGNED for and on behalf of

)

HSBC BANK plc

)



Executed and Delivered as a deed by  
BHS LIMITED acting by

Director

in the presence of

Signature of witness

\_\_\_\_\_

Name of witness

\_\_\_\_\_

Address of witness

\_\_\_\_\_

Executed and Delivered as a deed by  
BHS PROPERTIES LIMITED acting by

Director

in the presence of

Signature of witness

\_\_\_\_\_

Name of witness


\_\_\_\_\_

EXECUTION PAGE


THE LENDER

SIGNED for and on behalf of )  
HSBC BANK plc )

Executed and Delivered as a deed by  
BHS LIMITED acting by

Director 

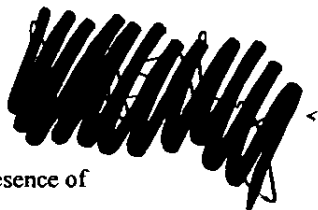
in the presence of

Signature of witness 

Name of witness  
ELEANOR GARRATT

Address of witness 

Executed and Delivered as a deed by  
BHS PROPERTIES LIMITED acting by

Director 

in the presence of

Signature of witness 

Name of witness  
ELEANOR GARRATT

Address of witness

*[Handwritten signature]*