Agreement

Dated 23rd March 2016

(1) BHS Limited  
(Company)

(2) The Board of the Pension Protection Fund  
(PPF)
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Agreement

Dated 23 March 2016

Between

(1) BHS Limited, a company registered in England and Wales under number 00229606 whose registered office is at 129-137 Marylebone Road, London, NW1 5QD (the "Company"); and

(2) The Board of the Pension Protection Fund, a statutory corporation established by the Pension Act 2004 of Renaissance, 12 Dingwall Road, Croydon Surrey CR0 2NA (the "PPF").

Recitals

(A) The Company sponsors two occupational defined benefit pension plans, of which the Company is the single participating employer and the principal employer.

(B) In March 2015 the Company's sole shareholder, BHS Group Limited, was acquired by Retail Acquisitions Limited. The directors devised a turnaround plan, a key component of which was that the Company agree a settlement with the PPF, the Pensions Regulator and the Trustees (each as defined below) in respect of its pension deficit.

(C) At the time of the acquisition, the Company had in place a long term recovery plan under Part 3 of the Pensions Act 2004 to address its pension deficit. The Company has since then been meeting its obligations under that recovery plan.

(D) On around 4 March 2016 the directors of the Company proposed the CVA (as defined below) in respect of its landlord liabilities and which does not purport to affect the Company's obligations in respect of its other unsecured creditors, save to restrict any unsecured creditor from improving its position by reason of the CVA. On 11 March 2016 the PPF proposed modifications to the CVA. On 14 March 2016 the Nominees rejected the proposed modifications and there have been on-going discussions between the parties in this regard.

(E) The PPF has agreed, among other things, that it will not vote against the CVA in consideration for which the Company is willing to, among other things, pay certain amounts in accordance with the terms of this Agreement on account of the 2016/17 Levies (as defined below).

It is AGREED

1 Definitions and interpretation

1.1 Definitions

In this Agreement, unless inconsistent with the context, the following definitions shall apply:

"2016/17 Levies" means the pension protection levies due in relation to both of the Pension Schemes pursuant to section 175 to section 181A of the Pensions Act when invoiced in the amount of approximately £5,000,000.

"Business Day" means any day (other than a Saturday, Sunday or public holiday) on which banks generally are open for normal business in London.

"Creditors' Meeting" means the meeting of creditors convened by the Nominees for the purposes of considering, and if thought fit, approving the proposed CVA, to be held at 10.30 am on 23 March 2016 at Novotel London West, One Shortlands, London W6 8DR.

"CVA" means the company voluntary arrangement under Part I of the Insolvency Act 1986 dated 4 March 2016 in respect of the Company.

"Debt" means a debt equivalent in value to the Section 75 Deficit, calculated by the Scheme Actuary in respect of the Pension Schemes in exactly the same way as the Scheme Actuary would have calculated the Section 75 Deficit if it was calculated in accordance with section 75 of the 1995 Act.

"End Date" means the earlier of:

(a) an RAA or other compromise in relation to both Pension Schemes between the Company and the PPF (and as may be appropriate, any other party) being implemented;

(b) a scheme failure notice being issued in relation to both Pension Schemes provided that:

(i) such notice becomes binding pursuant to section 125 of the Pensions Act (where the scheme failure notice is issued by the IP, the PPF will act reasonably and without undue delay to determine whether to approve the notice);

(ii) the liability due under section 75 of the 1995 Act ceases to be contingent pursuant to section 75(4C) of the 1995 Act; and

(c) the Longstop Period.

"Longstop Period" means the period commencing on the date of this Agreement and ending at 5.00 pm on 30 September 2016 or such later date as may be agreed in writing by the Parties before such time.

"Payments" means £600,000 monthly payments due by the Company on behalf of the Trustees to the PPF on account of the 2016/17 Levies, as further particularised in Schedule 1.

"Pension Schemes" means, together:

(a) Bhs PENSION SCHEME, currently governed by a trust deed and rules dated 20 June 2006 between the Company, Bhs PENSION TRUSTEES LIMITED, Margaret Downes and Arthur David Walford
(as amended inter alia by a deed of variation dated 10 June 2008),
which is administered by the Trustees; and

(b) Bhs SENIOR MANAGEMENT SCHEME, currently governed by a trust
deed and rules dated 27 July 2006 between the Company, Bhs
PENSION TRUSTEES LIMITED, Margaret Downes and Arthur David
Walford (as amended inter alia by a deed of variation dated 10
June 2008), which is administered by the Trustees.

"Pensions Act" means the Pensions Act 2004 and its underlying regulations (as
amended).

"Pensions Regulator" means the UK Pensions Regulator, a body corporate
established pursuant to the Part I of the Pensions Act.

"RAA" means a regulated apportionment arrangement in respect of the Pension
Schemes pursuant to regulation 7A of The Occupational Pension Schemes (Employer

"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.

"Section 75 Deficit" means an amount calculated in accordance with section 75 of
the 1995 Act.

"Trustees" means the trustees from time to time of the Pension Schemes.

1.2 Interpretation

In this Agreement unless otherwise specified:

1.2.1 headings are for ease of reference only and shall not be taken into account
in construing this Agreement;

1.2.2 references to this Agreement are references to this Agreement as varied,
novated or supplemented from time to time;

1.2.3 references to any Party shall be construed so as to include that Party's
respective successors in title, permitted assigns and permitted transferees;

1.2.4 references to statutes shall include any statute modifying, re-enacting,
extending or made pursuant to the same or which is modified re-enacted or
extended by the same or pursuant to which the same is made;

1.2.5 references to Clauses, paragraphs and Schedules are references to those
contained in this Agreement;

1.2.6 the Schedules are an integral part of this Agreement and references to this
Agreement include references to such Schedules;

1.2.7 in writing includes any communication made by letter but does not include,
other than for the purposes of Clause 4.1, e-mail or other forms of
electronic communication; and
1.2.8 the *ejusdem generis* rule does not apply to the interpretation of this Agreement. The words "include", "including" and "in particular" indicate examples only. They do not limit the general nature of any preceding words. A phrase starting with the words "or other" or "otherwise" is not limited by any preceding words where a wider interpretation is possible.

2 Agreement

2.1 Subject to Clause 5, the PPF undertakes and agrees:

2.1.1 not to vote, or direct any proxy to vote, against the CVA at the Creditors' Meeting;

2.1.2 not to make, or direct any person to make, any application to court to challenge the CVA on any basis whatsoever; and

2.1.3 subject to its statutory obligations, to refrain from exercising its rights under section 124 of the Pensions Act during the Longstop Period.

2.2 In consideration for the above, the Company agrees:

2.2.1 to pay to the PPF the Payments on the dates and in such amounts as such Payments fall due in accordance with Schedule 1 until the End Date or, if earlier, the date on which this Agreement terminates under Clause 5;

2.2.2 that the Payments will be held on account of the 2016/17 Levies;

2.2.3 that the Debt becomes due and payable by the Company to the PPF immediately upon the expiry of the Longstop Period and the PPF may, at any time after the expiry of the Longstop Period:

(a) make demand for the Debt in writing to the Company; and

(b) take steps to enforce the Debt.

2.2.4 that, prior to the End Date, it will not:

(a) grant any Security in respect of any assets that are not subject to any Security at the date of this Agreement; or

(b) incur any new debt or other liabilities;

without the prior written consent of the PPF (such consent not to be unreasonably withheld). This clause 2.2.4 shall not apply to: (i) any debt or other liabilities incurred in the ordinary course of business or in respect of the funding requirements under the CVA; and (ii) the asset based lending currently being negotiated by the Company.

2.2.5 except to the extent required by this Agreement, nothing in this Agreement shall be taken to affect any rights of the PPF, the Pensions Regulator or the Trustees and neither shall it preclude any of those parties from taking any steps to protect or enforce any of their rights, including but not limited to any rights in respect of any guarantees granted by Davenbush Limited (company no. 02341207) in favour of the Trustees but, for the avoidance of
doubt, the PPF’s rights in respect of the aforementioned guarantees issued by Davenbush Limited shall not be exercised prior to the End Date or, if earlier, the date on which this Agreement terminates under Clause 5.

3 No set-off or counterclaim

All sums payable by the Company in accordance with this Agreement shall be paid in full without set-off, counterclaim, retention or other deduction against any person whatsoever, any right to which is expressly waived by the Company.

4 Consultation

The Company agree to co-operate and consult in good faith and in good time with the PPF in relation to the performance or otherwise of their statutory obligations and any acts or omissions which may have an impact on the Pension Schemes or the PPF.

5 Termination

5.1 This Agreement terminates immediately if:

5.1.1 the Company fails to pay any Payment under this Agreement within 3 Business Days of the date on which it is due in accordance with Schedule 1; or

5.1.2 the CVA does not become effective or terminates in accordance with its terms,

at which time the PPF may exercise its rights referred to in Clauses 2.1.3 and 2.2.3 notwithstanding that the Longstop Period may not have expired.

6 Costs and expenses

The Company shall pay the reasonable costs and expenses incurred by the PPF in connection with the negotiation, preparation, execution and enforcement of this Agreement.

7 Representations and warranties

7.1 The Company represent and warrant to the PPF and the Trustees as follows:

7.1.1 It has power to execute, deliver and perform its obligations under this Agreement and has obtained all authorisations to enter into and perform this Agreement in accordance with its terms; and

7.1.2 compliance with the terms of this Agreement shall not breach or constitute default under any agreement or instrument to which it is bound or any order, judgment, decree or other restriction applicable to it.

8 Reservation of rights

Subject only to this Agreement, the PPF expressly reserves all rights, powers and remedies which it has now or may have from time to time.
9 Exclusion of liability

The PPF’s employees, advisers, valuers, agents, partners and their representatives, shall not incur any liability to BHS Limited howsoever arising in connection with their entry into this Agreement.

10 Assignment

This Agreement is personal to the Parties and no Party shall assign, encumber, dispose or otherwise transfer any of its rights under this Agreement without the prior consent of the other Party.

11 Severability

11.1 If any part of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

11.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

12 Entire agreement

12.1 This Agreement constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties in relation to its subject matter.

12.2 Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on, and shall have no right or remedy in respect of, any agreement, representation, warranty, statement, assurance or undertaking of any nature whatsoever (other than those expressly set out in this Agreement) made by or given by any person prior to the date of this Agreement and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Nothing in this Clause shall limit or exclude any liability for fraud.

13 Variation

Except as otherwise permitted by this Agreement, no change to its terms shall be effective unless it is in writing and signed by or on behalf of each of the Parties.

14 Counterparts

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered shall constitute a duplicate original, but all the counterparts together constitute this Agreement.

15 Third party rights

The Parties do not intend any of the terms of this Agreement to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to this Agreement, save for the Trustees.
16 Governing law and jurisdiction

16.1 This Agreement and any non-contractual obligations arising from or in connection with it shall in all respects be governed by and interpreted in accordance with English law.

16.2 The Parties irrevocably agree that the Courts of England and Wales are to have exclusive jurisdiction over any dispute (a) arising from or in connection with this Agreement or (b) relating to any non-contractual obligations arising from or in connection with this Agreement.

THIS AGREEMENT has been entered into on the date stated at the beginning of it,
## Schedule 1  Payments

<table>
<thead>
<tr>
<th>Item</th>
<th>Payment</th>
<th>Date Due</th>
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<tr>
<td>1</td>
<td>£600,000</td>
<td>29 April 2016</td>
</tr>
<tr>
<td>2</td>
<td>£600,000</td>
<td>27 May 2016</td>
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<td>3</td>
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<td>24 June 2016</td>
</tr>
<tr>
<td>4</td>
<td>£600,000</td>
<td>29 July 2016</td>
</tr>
<tr>
<td>5</td>
<td>£600,000</td>
<td>26 August 2016</td>
</tr>
<tr>
<td>6</td>
<td>£600,000</td>
<td>15 September 2016</td>
</tr>
</tbody>
</table>
EXECUTION PAGES

COMPANY

Signed by Domenic Chamberlain
duly authorised for and on behalf of BHS LIMITED

Authorised Signatory

PPF

Signed by

for and on behalf of the Board of the Pension Protection Fund

Authorised Signatory
EXECUTION PAGES

COMPANY

Signed by
duly authorised for and on behalf of BHS LIMITED

PPF

Signed by
for and on behalf of the Board of the Pension Protection Fund

[Signature]
Authorised Signatory
BHS REORGANISATION AGREEMENT

(1) BHS LIMITED
(2) BHS INTERNATIONAL HOLDINGS LIMITED
(3) RETAIL ACQUISITIONS LIMITED
(4) BHS SERVICES LIMITED
(5) BHS DIGITAL PROJECTS LIMITED
(6) BHS INTERNATIONAL LIMITED
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Agreed Form Documents

BHS International Sale Agreement
BHS IP Assignment
BHS Share Purchase Agreements
BHS Staff Reorganisation Agreement
First Services Agreement
Second Services Agreement
BETWEEN:

(1) BHS LIMITED a limited liability company with registered no. 00229600 whose registered office is at 129-137 Marylebone Road, London NW1 5QD ("BHS UK");

(2) NEWINNCO [●] LIMITED (to be known as BHS INTERNATIONAL HOLDINGS LIMITED following Completion) a limited liability company with registered no. ● whose registered office is at 129-137 Marylebone Road, London NW1 5QD ("BHS Global");

(3) RETAIL ACQUISITIONS LIMITED with company no. 09320475 whose registered office is at c/o Calder & Co, 16 Charles II Street, London SW2Y 4NW (the "Parent");

(4) BHS SERVICES LIMITED a limited liability company with registered no. 04002328 whose registered office is at 129-137 Marylebone Road, London NW1 5QD ("BHS Services");

(5) NEWINNCO 1393 LIMITED (to be known as BHS DIGITAL PROJECTS LIMITED following Completion) a limited liability company with registered no. 9760824 whose registered office is at 129-137 Marylebone Road, London NW1 5QD ("BHS Digital Projects"); and

(6) NEWINNCO 1392 LIMITED (to be known as BHS INTERNATIONAL LIMITED following Completion) a limited liability company with registered no. 9760858 whose registered office is at 129-137 Marylebone Road, London NW1 5QD ("BHS International").

RECITALS

(A) The parties are members of the same corporate group, all the issued shares of which are owned directly or indirectly by the Parent. BHS Global, BHS Digital Projects and BHS International have been incorporated for the purpose of the transactions contemplated by this Agreement.

(B) BHS UK owns and operates each of the BHS UK Business and the BHS International Business (together, the "BHS Businesses"). The Parent is funding a turn-around plan in respect of the BHS Businesses.

(C) The performance of the BHS International Business has fallen behind the turn-around plan. BHS UK and the Parent have come to the conclusion that the prospects for BHS International successfully achieving the turn-around plan and thus the interest of the Group's creditors, will be enhanced if each of the BHS UK Business and the BHS International Business were operated on a stand alone basis.

(D) Further, the Parent believes there is opportunity to develop and grow an international online ecommerce business and a business providing B2B software as a service ecommerce platform solutions (the "New Digital Businesses"). The Parent believes the prospects for growth, success and third party investment for the New Digital Businesses,
and thus the interests of the Group’s creditors, will be enhanced if the New Digital Businesses were also able to operate on a stand-alone basis.

(D) Accordingly, the Parent has resolved that (i) the BHS International Business (including all its staff and relevant intellectual property rights) should be transferred to BHS International; (ii) BHS Digital Projects should be established as the vehicle to pursue the New Digital Businesses; (iii) the Relevant Employees (defined below) and certain assets should transfer to a new service company, BHS Services, which would continue to provide relevant services to each of the BHS Businesses and, where relevant, the New Digital Businesses; and (iv) the share capital of BHS International should transfer to BHS Global and the share capital of BHS Services should transfer to the Parent (collectively, the “Reorganisation”), such to take place on the terms and subject to the conditions set out in this Agreement.

(E) The directors of BHS UK [are seeking] [have sought] third party valuation advice in the form of the Valuation in respect of the BHS International Business.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Words and expressions in this Agreement have the following meanings unless the context requires otherwise:

"Assets" means the assets and rights being transferred under the Relevant Agreements;

"Banking Consents" means the necessary consents to the Reorganisation from each of HSBC and Grovepoint under their respective agreements with BHS UK’s Group, in the agreed form;¹

¹ HSBC consent is required under Noah II in relation to:

- the acquisition of assets by BHS Services and BHS International (clause 19.8 contains a general prohibition on acquiring the whole or substantially the whole of any business or going consent and there is no carve out if it is acquired from another member of the BHS Group). Clause 19.5(b)(iv) permits a disposal from one member of the BHS Group to another and whilst it could be argued that by implication if the disposal were allowed, so should the acquisition, on the basis that consent for the transfer of the shares to RAL/BHS Global is required, we recommend that we seek consent to the transfer of the assets down to the subsidiaries as well);

- the deferral of the consideration for the transfer of assets (clause 19.9); and

- the sale of shares in BHS Services, BHS Digital Projects and BHS International to RAL/BHS Global (clauses 19.5 and 19.6).

Grovepoint consent is required (to the extent the reorganisation falls outside the definition of “permitted hive out”) in relation to:

- the Incorporation of BHS International and BHS Digital Projects (clauses 22.9(a) and 22.8(b));

- the transfer of assets from BHS UK to BHS Services and BHS International (clauses 22.8(a) and 22.5(b)(iv));

- the deferral of the consideration for the transfer of assets (clause 22.6); and

Error! Unknown document property name.
"BHS Businesses" has the meaning given to that term in the recitals;

"BHS International Business" means the business of licensing the Community Trade Marks and the International Trade Marks under the terms of the Franchise Agreements to international franchisees and supplying or procuring the supply of relevant stock to such franchisees carried on by BHS UK at the Effective Date;

"BHS International Sale Agreement" means the agreement between BHS UK and BHS International under which the business and assets of the BHS International Business, including without limitation the Franchise Agreements, are transferred to BHS International, in the agreed form;

"BHS IP Assignment" means the agreement between BHS UK and BHS International under which BHS UK transfers to BHS International the Community Trade Marks and the International Trade Marks and all other intangible assets (including unregistered trade marks, domain names, copyright and goodwill) attributable to the BHS International Business, in the agreed form;

["BHS Reorganisation Consents" means the Debenham’s Consent and the Camelot Consent]

"BHS Share Purchase Agreements" means the agreements between BHS UK and each of BHS Global and the Parent under which (i) the entire issued share capital of BHS International is transferred to BHS Global; (ii) the entire issued share capital of BHS Services is transferred to the Parent; and (iii) the intercompany receivables due to BHS UK under the Relevant Agreements are novated to BHS Global and the Parent (as appropriate), in the agreed form;

"BHS Staff Reorganisation Agreement" means the agreement under which certain employees and assets transfer from BHS UK to BHS Services, in the agreed form;

- the sale of shares in BHS Services, BHS Digital Projects and BHS International to RAL/BHS Global (clauses 22.4(a), 22.8(a) and possibly 22.6).

Debenhams may terminate immediately on notice if the Company undergoes "any material change of management, ownership or control".

BHS must immediately notify Camelot:
- upon becoming aware of any "change of ownership", such notice to be received at least 60 days prior to the date on which the change of ownership takes effect (clause 18.2 of the Standard National Retailer Conditions ("Standard Conditions"); and
- of any "changes or proposed changes in the ownership or the nature of [BHS'] business" (First Schedule, paragraph 2(1) of the Standard Conditions).

Camelot may terminate with immediate effect on or any time after:
- a change of control of BHS (with "control" meaning the ability to direct the affairs of BHS whether by virtue of contract, ownership of shares or otherwise); or
- a change of organisation, method of control or management which does not amount to a change of control but is likely in Camelot’s reasonable opinion to materially affect BHS’s performance of its contractual obligations,

(Second Schedule of the Standard Conditions, paragraphs 1(1) and 1(13)).
"BHS UK Business" means (i) the UK retail business trading under the name "BHS" operated in relevant leasehold stores in the UK and Jersey by BHS UK from time to time and (ii) the online ecommerce business serving UK resident customers operated by BHS UK via the Website from time to time;

["Camelot Consent" means the consent of Camelot pursuant to its agreement with BHS UK dated [*].]

"Community Trade Marks" means the Community trade mark registrations and applications listed in schedule 3;

"Completion" has the meaning given to that term in clause 5;

["Debenham's Consent" means the consent from Debenhams pursuant to its concession agreement with the Company dated [*].]

"DB Schemes" means the BHS Pension Scheme and the BHS Senior Management Scheme, each currently governed by a trust deed and rules dated 10 June 2008;

"Effective Date" means the close of business on the date of Completion;¹

"First Services Agreement" means the services agreement between BHS Services and BHS UK, in the agreed form;

"Franchise Agreements" means the franchise agreements with international partners of BHS UK;

"Goodwill" means the goodwill of BHS UK in relation to the BHS Businesses;

"Group" means BHS UK and its subsidiaries;

"holding company" and "subsidiary" shall have the meanings attributed to them in Companies Act 2006;

"International Trade Marks" means the non-UK and non-Community trade mark registrations and applications listed in schedule 4;

"L&G Scheme" means the Legal & General Worksave MasterTrust (RAS);

"Life Assurance Schemes" means the [*] and [*] schemes;

"Losses" means in relation to any matter, all liabilities, losses, claims, costs and expenses relating to that matter;

"New Digital Businesses" has the meaning given in recital (B);

¹ Effective Date / Completion may need to be the year end (29 February).
"Pensions Condition" means:

(i) the communication of the Reorganisation to the Pension Trustees;⁴

(ii) the parties being of the opinion that the Reorganisation does not trigger a liability under section 75 of the Pensions Act 1995;⁶ and

(iii) the parties considering whether an application to the Pensions Regulator for clearance is required in relation to the Reorganisation and if appropriate making such an application;

"Pension Scheme" means the DB Scheme and the L&G Scheme;

"Pension Trustees" means the trustees of the DB Scheme;

"Relevant Agreements" means the BHS International Sale Agreement and the BHS Staff Reorganisation Agreement;

"Relevant Employees" means all non-retail staff employed by BHS UK that do not transfer pursuant to the BHS International Sale Agreement;

"Reorganisation" has the meaning given to that term in the recitals;

"Second Services Agreement" means the services agreement between BHS Services and BHS International, in the agreed form;

"Services Agreements" means the First Services Agreement and the Second Services Agreement;

"Transfer Undertakings" means The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) which apply as a result of the Reorganisation;

"UK Trade Marks" means the national UK trade mark registrations and applications listed in schedule 5;

"Valuation" the valuation of the BHS International Business prepared by [Grant Thornton];

"Warranty Claim" means a claim for breach of any of the Warranties;

"Warranties" means the warranties given by BHS UK in clause 5 and Schedule 1; and

⁴ To be discussed to what extent the Reorganisation is communicated to the Pension Trustees prior to entry into the agreements listed in clause 3.

⁶ There is recent case law which supports the view that no section 75 liability would be triggered but we recommend seeking the opinion of Leading Counsel in this regard, before any assets or employees are moved under the Relevant Agreements.
"Website" means [www.bhs.com].

1.2 Unless the context requires otherwise words in the singular include the plural and vice versa and words for any gender shall include all genders. Reference to persons includes a body corporate.

1.3 Reference to any statute or statutory provision includes a reference to statutory instruments and orders made further to it and includes consolidations or amendments or modifications or re-enactments.

1.4 The headings are inserted for convenience only and shall not affect the construction of this Agreement.

1.5 Unless otherwise stated a reference to a clause or a schedule or a party is a reference to a Clause in or a Schedule or a party to this Agreement. The Schedules form a part of and are incorporated into this Agreement.

2. CONDITIONS PRECEDENT

2.1 Completion is conditional on:

2.1.1 satisfaction of the Pensions Condition;

2.1.2 [receipt by BHS UK of the Valuation and acceptance by the directors of BHS UK that the Valuation represents the fair market value of the BHS International Business;]

2.1.3 receipt by BHS UK of the Banking Consents;

2.1.4 [receipt of the BHS Reorganisation Consents.]

2.1.5 BHS UK notifying relevant employees as required under the Transfer Undertakings;

2.1.6 [announcement of the Reorganisation;] and

2.1.7 [others]

2.2 BHS UK shall use reasonable endeavours to ensure that the conditions set out in clause 2.1 are satisfied as soon as practicable, and shall notify BHS Global, with appropriate supporting documentation, as soon as practicable after it becomes aware that any of those conditions is satisfied or has become or is likely to become incapable of being satisfied.

2.3 BHS Global may by notice (on behalf of itself and the Parent) to BHS UK waive any or all of the conditions set out in clause 2.1. Any such waiver may relate to the whole or any

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7 The valuation may be obtained in advance of signature of this Agreement.
part of the relevant condition, may comprise an extension of the time allowed for satisfaction of the relevant condition and may be given unconditionally or subject to any conditions imposed in the absolute discretion of the party giving the waiver.

2.4 During the period beginning on the signing of this Agreement and ending at Completion, BHS UK shall use reasonable endeavours to carry on the BHS Businesses in the ordinary course.

3. **STAFF REORGANISATION AND SIGNATURE OF SALE AGREEMENTS**

On signature of this Agreement, the parties shall procure that the following steps occur in the order designated below:

3.1 the BHS International Sale Agreement is duly executed and completes in accordance with its terms;

3.2 the BHS Staff Reorganisation Agreement is duly executed and completes in accordance with its terms;

3.3 the BHS IP Assignment is duly executed and completes in accordance with its terms; and

3.4 the Services Agreements are duly executed.

4. **REORGANISATION AGREEMENT**

Subject to the terms of this Agreement, on Completion the Reorganisation shall take place and the parties shall each take the steps for which they are responsible for in clause 5 below.

5. **COMPLETION**

5.1 Completion shall take place at 12 a.m./p.m. at the offices of Olswang LLP once the conditions set out in clause 2.1 above are satisfied or (where permitted) waived, or at such other time and place as the parties may agree.

5.2 At Completion, the parties shall procure that the BHS Share Purchase Agreements are duly executed and complete in accordance with their terms.

5.3 Completion shall not occur unless clause 3 has been complied with in accordance with its terms and, following such steps taking place, the step set out in clause 5.2 has occurred and if such does not occur, [none of the agreements] [the Share Purchase Agreements] shall be taken to have been executed or to have completed and Completion shall be taken not to have occurred.

5.4 Immediately following Completion the parties shall procure that following name changes:

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\[\text{Conditionality of each agreement to be considered further.}\]


<table>
<thead>
<tr>
<th>Current name</th>
<th>New name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newincco [●] Limited</td>
<td>BHS International Holdings Limited</td>
</tr>
<tr>
<td>Newincco 1393 Limited</td>
<td>BHS Digital Projects Limited</td>
</tr>
<tr>
<td>Newincco 1392 Limited</td>
<td>BHS International Limited</td>
</tr>
</tbody>
</table>

6. **WARRANTIES**

**Warranties**

6.1 BHS UK warrants to each of BHS Global and the Parent that each of the Warranties is accurate and not misleading at the date of this Agreement.

6.2 Schedule 2 shall apply to limit or exclude in accordance with its terms, any liability which BHS UK might otherwise have in respect of a Warranty Claim.

**Buyer warranties**

6.3 BHS Global and the Parent severally warrant to BHS UK that each of the following warranties is accurate and not misleading at the date of this Agreement:

6.3.1 BHS Global and the Parent have all necessary power and authority to enter into and perform their respective obligations under this Agreement and all agreements to be entered into by them pursuant to this Agreement;

6.3.2 this Agreement, and all agreements to be entered into by BHS Global and the Parent, constitute (or will when executed constitute) binding and enforceable obligations in accordance with their respective terms; and

6.3.3 the entering into and performance by BHS Global and the Parent of their obligations under this Agreement and all agreements to be entered into by them under this Agreement:

6.3.3.1 will not result in a breach of any provision of the memorandum or articles of association of such parties;

6.3.3.2 will not result in a breach of, or constitute a default under, any agreement under which BHS Global or the Parent is party;

6.3.3.3 will not result in a breach of any order, judgment or decree of any court or governmental, administrative or regulatory body or agency to which BHS Global or the Parent is a party; and

6.3.3.4 do not require the consent of any third party.
7. USE OF THE TRADE MARKS

7.1 BHS UK covenants that it shall not use the UK Trade Marks in any manner in the course of any business other than to operate the BHS UK Business.

7.2 BHS International covenants that it shall not use the Community Trade Marks or any other unregistered Community trade marks acquired pursuant to the BHS International Sale Agreement in the UK in competition with the BHS UK Business.

7.3 BHS UK and BHS International shall cooperate in good faith in respect of any coordinated action which is reasonably required to protect or enforce either party's rights to use the trade marks owned by that party and used in connection with the BHS Businesses.

8. ASSIGNMENT

8.1 This Agreement shall be binding on and enure for the benefit of the successors and permitted assignees of the parties.

8.2 No party may assign or otherwise dispose of any rights under this Agreement, at law or in equity, including by way of declaration of trust. Any purported assignment in breach of this clause shall be void and confer no rights on the purported assignee.

9. NOTICES

9.1 Any notice, consent or other communication given under this Agreement shall be in writing and in English, and signed by or on behalf of the party giving it, and shall be delivered by hand or sent by prepaid recorded or special delivery post (or prepaid international recorded airmail if sent internationally) or by fax as follows (and, for the avoidance of doubt, may not be given by email):

**to BHS Global (on its behalf and on behalf of each of BHS International, BHS Digital Projects, BHS Services and the Parent):**

For the attention of: [name/title]

[Address:]

[Facsimile number:]

with a copy (which shall not constitute notice) [by hand] to [ ]; [and]

**to BHS UK:**

For the attention of: [name/title]

[Address:]

[Facsimile number:]
with a copy (which shall not constitute notice) [by hand] to [   ] at [   ]; and]

9.2 Any party may from time to time notify the others of any other person, address or fax number for the receipt of notices or copy notices. Any such change shall take effect five Business Days after notice of the change is received or (if later) on the date (if any) specified in the notice as the date on which the change is to take place.

9.3 Any notice, consent or other communication given in accordance with clause 9.1 and received after 5.30 p.m. on a Business Day, or on any day which is not a Business Day, shall for the purposes of this Agreement be regarded as received on the next Business Day.

9.4 The provisions of clause 9.1 shall not apply in relation to the service of process in any legal proceedings arising out of or in connection with this Agreement.

10. THIRD PARTY RIGHTS

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement. This clause shall not affect any right or remedy of a third party which exists or is available apart from that Act.

11. WAIVER

A failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of that or any other right or remedy. A waiver of a breach of any term of this Agreement shall not constitute a waiver of any other breach of this Agreement.

12. CUMULATIVE RIGHTS

The rights and remedies provided by this Agreement are cumulative and (except as otherwise provided in this Agreement) are no: exclusive of any rights or remedies provided by law.

13. NO MERGER

The provisions of this Agreement shall remain in full force and effect notwithstanding Completion.

14. COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument, and shall not be effective until each of the parties has executed at least one counterpart.
15. FURTHER ASSURANCE

BHS UK shall at its own cost execute all such documents and do or cause to be done all such other things as BHS Global may from time to time reasonably require in order to give full effect to this Agreement.

16. ENTIRE AGREEMENT

This Agreement and the documents referred to in it together constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of this Agreement.

17. GOVERNING LAW, JURISDICTION

17.1 The validity, construction and performance of this Agreement (and any claim, dispute or matter arising under or in connection with it or its enforceability) and any non-contractual obligations arising out of it shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability.

17.2 Each party irrevocably waives any objection which it may have now or later to proceedings being brought in the courts of England and Wales and any claim that proceedings have been brought in an inconvenient forum. Each party further irrevocably agrees that a judgment in any proceedings brought in the courts of England and Wales shall be conclusive and binding upon each party and may be enforced in the courts of any other jurisdiction.

17.3 Nothing in this Agreement shall affect the right to serve process in any manner permitted by law.

THIS AGREEMENT has been executed by or on behalf of the parties on the date at the top of page 1.
SCHEDULE 1

Warranties

1. AUTHORITY AND CAPACITY OF BHS UK

1.1 BHS UK and each of BHS Digital Projects, BHS International and BHS Services (the "Contracting Parties") have all necessary power and authority to enter into and perform their obligations under this Agreement and all agreements to be entered into by them pursuant to this Agreement.

1.2 This Agreement, and all agreements to be entered into by BHS UK and each of the Contracting Parties under this Agreement, constitute (or will when executed constitute) binding and enforceable obligations on them in accordance with their respective terms.

1.3 The entering into and performance by BHS UK and each of the Contracting Parties of their obligations under this Agreement and all agreements to be entered into by them under this Agreement:

1.3.1 will not result in a breach of any provision of the memorandum or articles of association of such parties;

1.3.2 will not result in a breach of, or constitute a default under, any agreement under which BHS UK or any of the Contracting Parties is party or under which the BHS Businesses enjoy rights or by which the BHS Businesses are bound;

1.3.3 will not result in a breach of any order, judgment or decree of any court or governmental, administrative or regulatory body or agency to which BHS UK or any of the Contracting Parties is a party or by which any of the BHS Businesses are bound; and

1.3.4 unless disclosed, do not require the consent of any third party.

2. LITIGATION

2.1 BHS UK is not engaged in any litigation, arbitration, mediation, conciliation, expert determination, adjudication or other dispute resolution process in relation to the BHS Businesses, the Goodwill or the Assets or any of them, whether as claimant or defendant or in any other capacity [(except as claimant for the collection of debts incurred in relation to the BHS Businesses in a sum not exceeding £[*] in the case of any one debt)].

2.2 There are no dispute resolution processes, proceedings and other processes or disputes such as are referred to in paragraph 2.1 of this part 3 pending or threatened by or against BHS UK in relation to the BHS Businesses, or which affect, or might affect, the Goodwill or any of the Assets, and there are no circumstances which might give rise to any such dispute resolution processes, proceedings and other processes or disputes.
3. **OWNERSHIP AND POSSESSION OF ASSETS**

All of the Assets being transferred under the Relevant Agreements are in the possession and ownership or under the control of BHS UK.

4. **EMPLOYEES AND TERMS OF EMPLOYMENT**

4.1 The Employees referred to in each of the Relevant Agreements will be all of the employees and workers necessary for the proper and efficient operation of the BHS Business being sold under each such agreement.

4.2 The lists of Employees set out in the schedules of the Relevant Agreements are complete and accurate lists of all the employees employed or engaged in the BHS Businesses at the date of this Agreement (whether employed or engaged under a contract of service or otherwise).

4.3 BHS UK has complied with its obligations under Regulation 11 of the Transfer Regulations.

5. **CURRENT PENSION ARRANGEMENTS**

5.1 Except for the Pension Scheme, BHS UK is not a party to or participates in or contributes to any scheme, agreement or arrangement (whether legally enforceable or not) for the provision of any pension, retirement, death, incapacity, sickness, disability, accident or other like benefits (including the payment after leaving the employment of BHS UK of medical expenses) for any Employee or for the widow, widower, surviving civil partner, child or dependant of any Employee and BHS UK will not enter into any such arrangement before Completion.

5.2 BHS UK has complied with its obligations under section 3 of the Welfare Reform and Pensions Act 1999 to facilitate access to a stakeholder pension scheme and has nominated the [●] scheme. BHS UK has no obligation to facilitate access to a stakeholder pension scheme under section 3 of the Welfare Reform and Pensions Act 1999.

5.3 BHS UK has not, and no member of the Group has, in the five years before the date of this Agreement participated in or been a participating employer of any defined benefit arrangement. Where "defined benefit arrangement" means a scheme, agreement or arrangement under which the amount or some or all of the benefits payable to or in respect of a member of the scheme, agreement or arrangement is calculated in accordance with a formula which takes account of the service of the member to retirement, death or withdrawal and the remuneration of the member at or close to his retirement, death or withdrawal.

5.4 No person is entitled to any enhanced terms as to the payment of pension or retirement benefits (whether under the Pension Scheme or otherwise) if he takes early retirement or is made redundant (or as a result of having taken early retirement or being made redundant) or otherwise that have passed to BHS UK by operation of the Transfer of
Undertakings (Protection of Employment) Regulations 1981 and/or the Transfer Regulations.

5.5 Contributions to the Pension Scheme are not paid in arrears and all contributions and premiums which are payable by BHS UK and other employers participating in the Pension Scheme due under the Pension Scheme and all contributions due from members of the Pension Scheme have been duly paid when due [and save for the payment of employer contributions BHS UK is not required to bear any fees, charges or expenses as an employer under the Pension Scheme in relation to it][and BHS UK has discharged its liability to pay or reimburse (whether wholly or in part) to anyone who has paid any costs, charges or expenses which have been incurred by or in connection with the Pension Scheme].
SCHEDULE 2

Limitations on BHS UK's Liability

1. **FINANCIAL LIMITS**

1.1 BHS UK shall not be liable in respect of any Warranty Claim unless BHS UK has a liability in respect of that Warranty Claim in excess of £50,000, excluding any liability for costs and interest.

1.2 BHS UK shall not be liable in respect of any Warranty Claim unless BHS UK has an aggregate liability in respect of all Warranty Claims (excluding all Warranty Claims for which BHS UK has no liability by reason of paragraph 1.1) in excess of £500,000, excluding any liability for costs and interest, and in such circumstances BHS UK's aggregate liability shall be entire amount as opposed to merely the excess.

1.3 For the purposes of this paragraph 1, a Warranty Claim which is based on more than one event or circumstance, each of which would separately give rise to a Warranty Claim, shall be treated as a separate Warranty Claim in respect of each event or circumstance.

1.4 The aggregate liability of BHS UK for all Warranty Claims, and including any liability for costs and interest, shall not exceed £[ ].

1.5 Neither BHS Global nor the Parent shall not bring a Warranty Claim against BHS UK for an amount in respect of which BHS UK cannot be liable by reason of any provision of this paragraph 1.

2. **TIME LIMITS**

2.1 BHS UK shall not be liable in respect of any Warranty Claim unless notice of that Warranty Claim, given in accordance with paragraph 1, is received by it on or before the first anniversary of the Completion Date.

2.2 BHS UK shall not be liable in respect of any Warranty Claim if, on or before the date falling 20 Business Days after the date on which notice of that Warranty Claim is received by BHS UK, BHS UK has remedied the relevant breach in all material respects or prevented BHS Global and the Parent from suffering any material loss in respect of the subject matter of that Warranty Claim or caused any loss so suffered by BHS Global and the Parent to be made good in all material respects. Each of BHS Global and the Parent shall comply with all reasonable requests made by BHS UK during that period for the purposes of so remeedying any such breach or preventing any such loss.

2.3 BHS UK shall not be liable in respect of any Warranty Claim (if not previously satisfied, settled or withdrawn) unless legal proceedings have been validly issued and served on BHS UK on or before the date falling 120 Business Days after the date on which notice of that Warranty Claim was served under paragraph 2.2.
SCHEDULE 3

Community Trade Marks
SCHEDULE 4

International Trade Marks
SCHEDULE 5

UK Trade Marks
EXECUTED BY THE PARTIES on the date referred to on page 1 of this Agreement

EXECUTED as a deed but not delivered until the date of this Deed by

BHS LIMITED
acting by its director
in the presence of:

Witness's
Name:
Address:
Occupation:

)Director's
)Signature
)Print Name

EXECUTED as a deed but not delivered until the date of this Deed by

NEWINCCO [•] LIMITED
acting by its director
in the presence of:

Witness's
Name:
Address:
Occupation:
EXECUTED as a deed but not delivered until the date of this Deed by
NEWINCCO 1393 LIMITED
acting by its director
in the presence of:
Witness's
Signature:..............................................................

Name:........................................................................

Address:......................................................................
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Occupation..............................................................

EXECUTED as a deed but not delivered until the date of this Deed by
NEWINCCO 1392 LIMITED
acting by its director
in the presence of:
Witness's
Signature:..............................................................

Name:........................................................................

Address:......................................................................
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Occupation..............................................................