

**DATED** 26 March 2015

**(1) ARCADIA GROUP LIMITED**

- and -

**(2) HSBC BANK PLC**

**GUARANTEE AND INDEMNITY**

relating to

the obligations of BHS Group Limited

**BY**

(1) **ARCADIA GROUP LIMITED**, a company incorporated and registered under the laws of England and Wales with number 00237511 with its registered office at Arcadia Group Limited, Colegrave House, 70 Berners Street, London W1T3NL (the **Guarantor**);

**IN FAVOUR OF**

(2) **HSBC BANK PLC** (the **Lender**).

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

**Affiliate** means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company;

**Borrower** means BHS Group Limited, incorporated in England & Wales with registered number 03858895 whose registered office is situated at Colegrave House, 70 Berners Street, London W1T 3NL;

**Compliance Certificate** means a certificate in the form set out in Schedule 1 to this Deed.

**Debtor** means the Guarantor, the Shareholder, an Obligor or any other Subsidiary of the Borrower;

**Discharge Date** means the date on which the Guaranteed Obligations have been irrevocably discharged and repaid in full and the Lender has no further commitment to the Borrower;

**Enforcement Action** means:

- (a) in relation to any Guaranteed Obligations or any Security, guarantee, indemnity or other assurance against loss in respect thereof (the **Liabilities**):
  - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for the Lender to perform its obligations under, or of any mandatory prepayment arising under, the Finance Documents);
  - (ii) the making of any declaration that any Liabilities are payable on demand;
  - (iii) the making of a demand in relation to a Liability that is payable on demand;
  - (iv) the making of any demand against any Debtor in relation to any Liabilities of that Debtor;
  - (v) the exercise of any right to require any Debtor to acquire any Liability (including exercising any put or call option against any Debtor for the redemption or purchase of any Liability);
  - (vi) the exercise of any right of set-off, account combination or payment netting against any Debtor in respect of any Liabilities other than the exercise of any such right which is otherwise expressly permitted under the Facility Agreement;

- (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any Debtor to recover any Liabilities;
- (b) the taking of any steps to enforce or require the enforcement of any Security (including the crystallisation of any floating charge forming part of the Security);
- (d) the entering into of any composition, compromise, assignment or arrangement with any Debtor; or
- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any Debtor in respect of any of the Liabilities, or any of such Debtor's assets or any suspension of payments or moratorium of any indebtedness of any such Debtor, or any analogous procedure or step in any jurisdiction,

except that the taking of any action falling within paragraphs (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods shall not constitute Enforcement Action.

**Facility Agreement** means a facility agreement dated on or about the date of this Deed between the Borrower and the Lender as amended, restated, varied or supplemented from time to time in a manner permitted by this Deed;

**Guaranteed Obligations** means all present and future payment obligations and payment liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Obligors to the Lender under the Finance Documents;

**Holding Company** has the meaning given in section 1159 of the Companies Act 2006;

**Interest Rate** means the rate of interest payable on any facility guaranteed by the guarantee created by or pursuant to this Deed;

**Party** means a party to this Deed and includes the Lender whether or not it is a signatory to this Deed;

**Security** 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; and

**Subsidiary** has the meaning given in section 1159 of the Companies Act 2006.

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Deed 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) **includes** or **including** shall be read and construed as including the phrase **without limitation**;
  - (iv) **this Deed** or any other agreement or instrument is a reference to this Deed, 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 the Borrower's obligations or provides for further advances) in a manner permitted by this Deed;

- (v) **Guaranteed Obligations** includes obligations and liabilities which would be treated as such but for the death, bankruptcy, liquidation, administration, dissolution of or similar event affecting the Borrower;
  - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vii) the singular includes the plural and vice versa.
- (b) When any provision of this Deed 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 Deed.
  - (d) Clause headings are for ease of reference only and shall not affect the construction of this Deed.
  - (e) If the Lender reasonably considers that an amount paid by the Guarantor under this Deed or by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Guarantor or the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
  - (f) Where the Borrower is more than one person references to the Borrower are to each such person both jointly and severally.
  - (g) Where the Borrower is expressed to be a partner, a reference to the Borrower includes all the partners in the partnership from time to time, regardless of any change in the name or constitution of the partnership or any change in the number or identity of the partners in the partnership, however caused.
  - (h) Where the Borrower is expressed to be a trustee of a trust, a reference to the Borrower includes all the trustees of that trust from time to time, regardless of any change in the name or constitution of the trust or any change in the number or identity of the trustees of the trust, however caused.
  - (i) Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.

### **1.3 Third party rights**

A person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

### **1.4 Delivery**

The Parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this document shall take effect as a deed notwithstanding the fact that the Lender may only execute this document under hand.

## **2. GUARANTEE AND INDEMNITY**

Subject to the terms of this Deed, in consideration of the Lender making available or continuing facilities to the Borrower, the Guarantor irrevocably and unconditionally:

- (a) guarantees to the Lender within ten Business Days of demand on the Guarantor the due and punctual performance by the Borrower of all of the Guaranteed Obligations;
- (b) undertakes with the Lender that whenever the Borrower does not pay any amount of the Guaranteed Obligations when due, the Guarantor shall within ten Business Days of demand on the Guarantor pay that amount as if the Guarantor were the principal obligor; and
- (c) agrees with the Lender that if any part or the whole of the Guaranteed Obligations become unenforceable, invalid or illegal, the Guarantor will, as an independent and primary obligation, indemnify the Lender within ten Business Days of demand on the Guarantor against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount the Guarantor would have had to pay under this clause 2 if the amount claimed had been recoverable on the basis of a guarantee.

### **3. FINANCE DOCUMENTS**

#### **3.1 Restriction on amendment and waivers**

- (a) Subject to paragraph (b) below, the Lender may amend or waive the terms of the Finance Documents in accordance with their terms (and subject to any consent required under them) at any time.
- (b) The Lender may not amend or waive the terms of the Finance Documents if the amendment or waiver has the effect of:
  - (i) increasing the principal amount of the Facility;
  - (ii) changing the amount, currency, dates or terms of repayment or prepayment (mandatory or otherwise) of the Facility other than one which is contemplated by the original form of the Finance Documents (or the amended form of Finance Documents to the extent that such amendments have been previously agreed (if required by the terms of this Deed) by the Guarantor);
  - (iii) changing the basis on which interest, fees or commission accrue, are calculated or are payable other than one which is:
    - (A) contemplated by the original form of the Finance Documents (or the amended form of Finance Documents to the extent that such amendments have been previously agreed (if required by the terms of this Deed) by the Guarantor); or
    - (B) which is:
      - (1) a minor or administrative change or correction; or
      - (2) a correction of a manifest error,which is, in each case, not prejudicial to the Guarantor;
  - (iv) making any Debtor liable to make additional or increased payments;
  - (v) making any Debtor being subject to materially more or less onerous obligations under the representations, undertakings, financial covenants or events of default in the Facility Agreement; or

- (vi) changing the nature or scope of, or releasing, any Security, guarantee, indemnity or other assurance against loss, the assets subject to any Security or the manner in which the proceeds of enforcement of any Security are distributed (other than a release of Security contemplated by the original form of the Finance Documents (or the amended form of Finance Documents to the extent that such amendments have been previously agreed (if required by the terms of this Deed) by the Guarantor) to permit the disposal of a Property (or the Chargors that own that Property) provided that the proceeds of such disposal are applied in accordance with the mandatory prepayment provisions of the original form of the Facility Agreement (or the amended form of Finance Documents to the extent that such amendments have been previously agreed (if required by the terms of this Deed) by the Guarantor)),

in which case the prior consent of the Guarantor is required.

### **3.2 Designation of Finance Documents**

If the terms of a document effect a change which would, if that change was effected by way of amendment to, or waiver of, the terms of a Finance Document, require the consent of the Guarantor under Clause 3.1 (*Restriction on amendment and waivers*), that document may not be entered into without the prior consent of the Guarantor.

### **3.3 Restriction on transfer**

- (a) Notwithstanding any other provision of the Finance Documents, the Lender may not assign and/or transfer its rights and obligations under the Finance Documents without the consent of the Guarantor unless the assignment or transfer is:
  - (i) to an Affiliate of the Lender;
  - (ii) made at a time when an Event of Default is continuing; or
  - (iii) made pursuant to Clause 3.5 (*Option to purchase*).
- (b) The consent of the Guarantor to an assignment or transfer must not be unreasonably withheld or delayed. The Guarantor will be deemed to have given its consent ten Business Days after the Lender has requested it unless consent is expressly refused by the Guarantor within that time.

### **3.4 Restriction on enforcement**

The Lender shall not be entitled to:

- (a) take any Enforcement Action in respect of any of the Guaranteed Obligations; or
- (b) declare that the outstanding Loan, interest and other outstanding amounts are immediately due and payable pursuant to Clause 5.3(a)(iv) of the Facility Agreement (the "**Declaration**"),

unless the Lender has consulted with the Guarantor in good faith for a period of no less than 30 days prior to taking such Enforcement Action or Declaration, save always if the Enforcement Action arises as a result of an Event of Default set out in clause 22.13 (*Corporate Guarantor*) of the Facility Agreement.

### **3.5 Option to purchase**

If the guarantee or indemnity set out in Clause 2 (*Guarantee and Indemnity*) is demanded, at any time if an Event of Default is continuing or if the circumstances have arisen to allow a Declaration (as defined in Clause 3.4 above) to be made, the Guarantor may at any time by giving not less than five

Business Days' notice to the Lender, require the transfer to it (or to a nominee or nominees) of all, but not part, of the rights and obligations in respect of the Guaranteed Obligations if:

- (a) that transfer is lawful;
- (b) the Lender is paid an amount equal to the aggregate amount of all of the Guaranteed Obligations which are then outstanding; and
- (c) the transfer is made without recourse to, or representation or warranty from, the Lender, except that each Lender shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

#### **4. NATURE OF GUARANTEE**

##### **4.1 Continuing guarantee**

This Deed is a continuing guarantee and will extend to the ultimate balance of all the Guaranteed Obligations, regardless of any intermediate payment or discharge in whole or in part.

##### **4.2 Additional and separate guarantee**

This Deed is in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold for any of the Guaranteed Obligations.

##### **4.3 Immediate recourse**

The Guarantor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Guarantor under this Deed.

#### **5. REINSTATEMENT**

- (a) If any discharge, release or arrangement given by the Lender (whether in respect of the obligations of the Guarantor or the Borrower or any Security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, bankruptcy, administration or otherwise, without limitation, then the Guarantor's liability under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- (b) The Lender may decline to release this Deed if it reasonably considers any payment security or other disposition may be avoided or must be restored in any liquidation, bankruptcy, administration or otherwise.

#### **6. WAIVER OF DEFENCES**

Subject to Clause 3 (*Finance Documents*) the Guarantor's obligations under this Deed will not be affected by any act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of the Guarantor's obligations under this Deed (whether or not known to the Guarantor or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or any other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor;

- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Borrower or any other person, or any non-presentation or non-observance of any formality or other requirement in respect of any instrument, or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any document or Security in each case which has been expressly agreed to by the Guarantor;
- (f) any unenforceability, illegality or invalidity of any obligation of any other person under any other document or Security; or
- (g) any insolvency or similar proceedings.

## **7. APPROPRIATIONS AND SUSPENSE ACCOUNT**

### **7.1 Right of appropriation**

- (a) All monies received or recovered by the Lender from the Guarantor, the Borrower or any other person in respect of the Guaranteed Obligations may be applied by the Lender to reduce any part of the Guaranteed Obligations or as it sees fit or in accordance with clause 7.2 (*Application and suspense account*).
- (b) Any such appropriation by the Lender shall override any appropriation by the Guarantor.

### **7.2 Application and suspense account**

Until the Discharge Date, the Lender may:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by it in respect of the Guaranteed Obligations or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from the Guarantor or on account of its liabilities under this Deed.

## **8. DEFERRAL OF GUARANTOR'S RIGHTS**

### **8.1 Deferral of rights**

Until the Discharge Date and unless the Lender otherwise directs, the Guarantor shall not exercise any rights which it may have by reason of performance by it of its obligations under or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by the Borrower;
- (b) to claim any contribution from any other guarantor of the Borrower's obligations to the Lender;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender in respect of the Borrower or of any other guarantee or Security taken by the Lender;



- (d) to bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under clause 2 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against the Borrower; and/or
- (f) to claim or prove as a creditor of the Borrower in competition with the Lender.

## **8.2 Trust**

If the Guarantor receives any benefit, payment or distribution in relation to the rights referred to in clause 8.1 (*Deferral of rights*) or any Security as a result of any breach of clause 8.3 (*No security*), it shall:

- (a) hold that benefit, payment, distribution or Security to the extent necessary to enable all the Guaranteed Obligations to be repaid in full on trust for the Lender; and
- (b) promptly pay or transfer the same to the Lender or as the Lender may direct for application in or towards discharge of the Guaranteed Obligations.

## **8.3 No security**

Until the Discharge Date and unless the Lender otherwise directs, the Guarantor shall not have or take from the Borrower or any other surety for any Guaranteed Obligation any Security in respect of the Guarantor's liability under this Deed or in respect of any other obligation or liability which the Borrower has, or may in future have, to the Guarantor.

## **8.4 Additional security**

This Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lender.

# **9. REPRESENTATIONS**

## **9.1 General**

The Guarantor makes the representations and warranties set out in this clause 9 (*Representations*) to the Lender on the date of this Deed and on each day the Guaranteed Obligations are outstanding.

## **9.2 Status**

Where the Guarantor is a company, it is a limited liability corporation duly incorporated and validly existing under the law of its jurisdiction of incorporation and it has the power to own its assets and carry on its business as it is being conducted.

## **9.3 Binding obligations**

The Guarantor's obligations in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

## **9.4 Non-conflict with other obligations**

The entry into and performance by the Guarantor of its obligations under this Deed and the transactions contemplated by it do not and will not conflict with:

- (a) any law or regulation applicable to the Guarantor; or
- (b) its constitutional documents (save where the Guarantor is an individual); or

(c) any agreement or other obligation binding on the Guarantor or any of its assets,  
in each case to an extent which could reasonably be expected to have a Material Adverse Effect.

## **9.5 Power and authority**

The Guarantor has the power to enter into, perform and deliver, and have taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

## **9.6 Validity and admissibility in evidence**

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations and registrations required or desirable to enable the Guarantor lawfully to enter into, comply with its obligations under this Deed, and to make this Deed admissible in evidence in any relevant jurisdiction have been obtained or effected and are in full force and effect.

## **10. FINANCIAL STATEMENTS**

The Guarantor must supply to the Lender:

- (a) as soon as the same become available, but in any event within 120 days after the end of each financial year, the consolidated audited financial statements of the Guarantor for that financial year; and
- (b) as soon as the same become available, but in any event no later than 45 days after the end of each financial quarter for the Guarantor, the quarterly consolidated accounts for the Guarantor.

## **11. NEW ACCOUNTS**

The Guarantor acknowledges that if for any reason this Deed ceases to be a continuing guarantee for the Lender, it may either continue any then existing account(s) with the Borrower or open one or more new accounts for the Borrower, but in any such case the Guarantor's obligations under this Deed shall remain unaffected by, and be calculated without regard to, any payment into and out of any such account after this Deed has ceased to be a continuing guarantee.

## **12. SET-OFF**

- (a) The Lender may (but shall not be obliged to) set off any obligation which is due and payable by the Guarantor and unpaid against any obligation (whether or not matured) owed by the Lender to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation.
- (b) If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **13. PAYMENT**

### **13.1 Payments**

Subject to clause 13.2 (*Gross-up*), all payments to be made by the Guarantor under this Deed shall be made without (and free and clear of, and without any deduction for or on account of) any set-off or counterclaim, or (except to the extent compelled by law) any deduction or withholding for or on account of tax.

### **13.2 Gross-up**

If the Guarantor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Lender, the sum so payable by it shall be increased so as to result in the receipt by the Lender of a net amount equal to the full amount expressed to be payable under this Deed.

## **14. CURRENCIES**

### **14.1 Currency of account**

Payments under this Deed in relation to the Guaranteed Obligations shall be made in the currency to which it is denominated, and each payment in respect of costs, expenses or taxes under this Deed shall be made in the currency in which the costs, expenses or taxes are incurred.

### **14.2 Currency indemnity**

If any sum due from the Guarantor under this Deed (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- (a) making or filing a claim or proof against the Guarantor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Guarantor shall, as an independent obligation, indemnify the Lender on demand against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to the Lender at the time of its receipt of that Sum.

### **14.3 Waiver**

The Guarantor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable.

## **15. INDEMNITY**

The Guarantor must indemnify the Lender promptly on demand against any cost, loss, liability or expense (however arising) incurred by the Lender as a result of or in connection with any breach by the Guarantor of any of its obligations under this Deed.

## **16. INFORMATION: FINANCIAL CONDITION**

At least 5 Business Days prior to each Payment Date the Guarantor must supply to the Lender a Compliance Certificate signed by a treasurer, director or other authorised signatory of the Guarantor evidencing that it is not in breach of the Event of Defaults set out in clause 22.13 (*Corporate Guarantor*) of the Facility Agreement as at the date at which those financial statements or accounts were drawn up and setting out in reasonable detail computations as to compliance with such obligations.

## **17. CALCULATIONS AND CERTIFICATES**

Any certificate of or determination by the Lender specifying the amount of the Guaranteed Obligations is, in the absence of manifest error, conclusive evidence against the Guarantor of the matters to which it relates.

## **18. PARTIAL INVALIDITY**

All the provisions of this Deed 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.

## **19. REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Guarantor 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.

## **20. AMENDMENTS AND WAIVERS**

Any provision of this Deed may be amended only if the Guarantor and the Lender agree in writing and any breach of this Deed by the Guarantor 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 Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## **21. TRANSFER AND CONFIDENTIALITY**

### **21.1 Transfer**

- (a) Subject to Clause 3.3 (*Restriction on transfer*), the Lender may assign and/or transfer its rights and obligations under this Deed.
- (b) The Guarantor shall not assign any of its rights or transfer any of its obligations under this Deed.

### **21.2 Confidentiality**

The Lender may disclose to:

- (a) any transferee or potential transferee;
- (b) any assignee or potential assignee;
- (c) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Guaranteed Obligations;
- (d) any ratings agency;
- (e) any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 21.2(a) to 21.2(d);
- (f) any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives; and
- (g) any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation,

such confidential information as the Lender shall consider appropriate if any person to whom the confidential information is to be given is informed in writing of its confidential nature and (in the case

of paragraphs (a) to (d) above) has signed a confidentiality undertaking substantially in the form recommended by the Loans Market Association.

## **22. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

## **23. OTHER GUARANTORS**

Subject to Clause 3 (*Finance Documents*), the Guarantor agrees to be bound by this Deed notwithstanding that any other person intended to execute or be bound by this Deed or by any other guarantee or assurance for the Guaranteed Obligations to the Lender may not do so or may not be effectually bound.

## **24. NOTICES**

### **24.1 Communications in writing**

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

### **24.2 Addresses**

The Lender may deliver any communication, document or notice to the Guarantor relating to this Deed to its registered office or any additional address the Guarantor may notify to the Lender by not less than five business days' notice.

### **24.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed 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).

## **25. GOVERNING LAW**

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

## **26. ENFORCEMENT**

### **26.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute (including a dispute relating to non-contractual obligations) arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed) (a **Dispute**).
- (b) The Guarantor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Guarantor will not argue to the contrary.

- (c) This clause 26.1 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** of which this Deed has been duly executed by the Guarantor as a deed and duly executed by the Lender and has been delivered on the first date specified on page 1 of this Deed.

## SCHEDULE 1

### Form of Compliance Certificate

From: Arcadia Group Limited

To: HSBC Bank plc

Dated: [◆ ]

Dear Sirs

Guarantee and Indemnity dated [ ] 2015 between Arcadia Group Limited (1) and HSBC Bank Plc (2) (the "Guarantee")

1. We refer to the Guarantee. This is a Compliance Certificate. Terms defined in the Guarantee have the same meaning in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. Pursuant to clause [16] of the Guarantee, we hereby certify that there is no Event of Default arising under clause 22.13 (*Corporate Guarantor*) of the Facility Agreement<sup>1</sup>.

[◆ ] *Set out in reasonable detail computations as to compliance of the financial covenants*

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Director of  
**Arcadia Group Limited**

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<sup>1</sup> If this statement cannot be made, the certificate should identify any Default that is continuing and the steps if any, being taken to remedy it

**EXECUTION PAGE**

**THE GUARANTOR**

Director:

In the presence of:

Witness signature:

Witness name:

Witness occupation:

Witness address:

**THE LENDER**

**SIGNED** for and on behalf of

)

**HSBC BANK plc**

)

A handwritten signature in black ink, appearing to be a stylized name, is written over the closing parenthesis of the lender's signature line.



EXECUTION PAGE

THE GUARANTOR

Director:

C 

In the presence of:



Witness signature:

RICHARD BEECHILL

Witness name:

Witness occupation:

ACCOUNTANT

Witness address:

WOODLAND HOUSE  
WD3 5BN

THE LENDER

SIGNED for and on behalf of

)

HSBC BANK plc

)