



**Registration of a Charge**

Company name: **ARCADIA GROUP LIMITED**

Company number: **00237511**



X88EJ83N

Received for Electronic Filing: **26/06/2019**

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**Details of Charge**

Date of creation: **12/06/2019**

Charge code: **0023 7511 0027**

Persons entitled: **ARCADIA GROUP PENSION TRUST LIMITED**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains floating charge(s) .**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**





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

Company number: 237511

Charge code: 0023 7511 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 12th June 2019 and created by ARCADIA GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th June 2019 .

Given at Companies House, Cardiff on 27th June 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

# TRAVERS SMITH

10 Snow Hill London EC1A 2AL  
+44 (0)20 7295 3000 | [www.traverssmith.com](http://www.traverssmith.com)

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## VLN SECURITY AGREEMENT

DATED 12 June 2019

(1) Arcadia Group Limited  
as the Chargor

in favour of

(2) Arcadia Group Pension Trust Limited  
as Security Trustee

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THIS DEED is dated 12 June 2019 and made between:

- (1) **ARCADIA GROUP LIMITED**, a company registered in England and Wales having its registered office at Colegrave House, 70 Berners Street, London W1T 3NL and with registered number 00237511 (the "**Chargor**") in favour of
- (2) **ARCADIA GROUP PENSION TRUST LIMITED** as security trustee for the Secured Parties on the terms and conditions set out in the Security Trust Deed (the "**Security Trustee**", which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of, and in accordance with, the Security Trust Deed).

IT IS AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

Terms defined in the Pensions Deed (as defined below) shall, unless otherwise defined in this Deed, have the same meaning when used in this Deed and in addition:

**214 Facility Agreement** means the facilities agreement dated 20 June 2014 between Taveta Investments Limited (as the Parent), Taveta Investments (No. 2) Limited as Company, the parties listed therein as Guarantors, The Royal Bank of Scotland plc, Barclays Bank PLC and HSBC Bank plc (as Arrangers) and The Royal Bank of Scotland plc (now NatWest Markets plc) (as Security Agent, The Royal Bank of Scotland plc (as Agent) and the parties listed therein as Original Lenders as amended on 16 July 2015 (and as further amended and/or restated from time to time).

**Account Bank** means HSBC UK Bank plc or any replacement account bank in relation to an Assigned Account from time to time.

**AGL** means the Chargor.

**AGL CVA** means the CVA in respect of AGL in the respect of which the nominees submitted a report to the Court under section 2 of the Insolvency Act 1986 on 22 May 2019 (as amended from time to time).

**Assets** means in relation to the Chargor, its property, assets and rights of every description, or any part of them, for the time being comprised within an assignment created by Clause 3.1 (*Assignments*) or within a mortgage or charge created by Clauses 3.2 (*Fixed Charge*) or 3.3 (*Floating Charge*).

**Assigned Account** means the Blocked Account (and any renewal or redesignation of such account) and any other account that may from time to time be agreed between the Security Trustee and the Chargor to be an Assigned Account.

**Assigned VLN Documents** means the Fixed and Floating Security Document and any other document designated by the Security Trustee and the Chargor as an Assigned VLN Document from time to time.

**Blocked Account** means the account to be opened in the name of the Chargor held with the Account Bank.

**Charged Property** means all the assets and undertakings of the Chargor which from time to time are the subject of the security created or expressed to be created in favour of the Security Trustee by or pursuant to this Deed.

**Charges** means all or any of the Security created or expressed to be created by or pursuant to this Deed.

**Collateral Rights** means all rights, powers and remedies of the Security Trustee provided by or pursuant to this Deed or by law.

**Default Event** means any event or circumstance specified as such in Clause 11.

**Effective Date** means the date on which the AGL CVA is approved by the requisite majority of CVA Creditors at the Creditors' Meeting (each such term as defined in the AGL CVA).

**Enforcement Event** means any Default Event in respect of which the Security Trustee has notified the Chargor in writing that it intends to exercise any of its rights under this Deed.

**Executive Trustee** means AG Senior Executives Pension Trustee Limited.

**Fixed and Floating Security Document** means the fixed and floating security document dated 5 December 2012 created by the VLN Obligors in favour of the Chargor.

**Group** has the meaning given to it in the Pensions Deed.

**Group CVAs** means the company voluntary arrangements in respect of each of AGL; Burton/Dorothy Perkins Properties Limited; Outfit Retail Properties Limited; Redcastle Limited; Top Shop/Top Man Limited; Top Shop/Top Man Properties Limited; and Wallis Retail Properties Limited, in the respect of which the nominees submitted a report to the court under section 2 of the Insolvency Act 1986 on 22 May 2019 (as amended from time to time), with each being a "Group CVA".

**Group Trustee** means Arcadia Group Pension Trust Limited.

**Insolvency Event** means, in relation to any party:

- (a) any resolution is passed or order made for the winding up, dissolution or administration;
- (b) the appointment of any liquidator, receiver, administrative receiver, administrator or other similar officer in respect of that party or any of its assets; or

- (c) any analogous procedure or step is taken in any jurisdiction.

**Loan A** means the £200,000,000 loan provided to TSTM by the Chargor pursuant to clause 3.1 of the VLN Loan Agreement.

**Loan B** means the £160,000,000 loan provided to TSTM by the Chargor pursuant to Clause 4.1 of the VLN Loan Agreement.

**LPA** means the Law of Property Act 1925.

**Maximum Secured Amount** means an amount equal to £185 million (one hundred and eighty five million pounds sterling) plus the amount of all costs and expenses incurred by the Security Trustee or the Pension Trustees under or in relation to the Pension Trustee Security Agreements, provided that if a liquidator or administrator is appointed in respect of the Chargor within 21 days following either:

- (a) any of the Group CVAs (other than the AGL CVA) failing to be approved by the requisite majority of the relevant CVA Creditors at the relevant Creditors' Meeting (each such term as defined in the relevant Group CVA); or
- (b) any of the Group CVAs being revoked or terminated as a result of an application being brought under, and in accordance with, section 6(1) of the Insolvency Act 1986, where such revocation or termination was ordered pursuant to judgment by the Court or by agreement between the relevant company and the party bringing the application,

the Maximum Secured Amount shall be an amount equal to, as at the date of such appointment, the difference between:

- (i) the aggregate deficit reduction contributions which would have been payable to the Pension Trustees (or either of them) in the period from the vote of the CVA Creditors in respect of the AGL CVA to (and including) the date a liquidator or administrator is appointed in respect of the Chargor, pursuant to the Schedule of Contributions in place for each Pension Scheme immediately prior to the date of the Pension Agreement had the Pension Agreement not been entered into; and
- (ii) the aggregate amount of deficit reduction contributions payable to the Pension Trustees (or either of them) in the period from the vote of the CVA Creditors in respect of the AGL CVA to (and including) the date a liquidator or administrator is appointed in respect of the Chargor, pursuant to the revised Schedule of Contributions in place for each Pension Scheme entered into pursuant to the Pension Agreement and actually received by each of the Pension Trustees

plus the amount of all costs and expenses incurred by the Security Trustee or the Pension Trustees under or in relation to the Pension Trustee Security Agreements.



**Mitigation Release Date** shall have the meaning given to it in the Pension Agreement.

**Pension Trustees** means the Group Trustee and the Executive Trustee, (and **Pension Trustee** shall mean any one of them).

**Pensions Deed** means the pensions deed entered into on or about the date of this Deed between, among others, the Chargor and other members of the Group, the Group Trustee, the Executive Trustee and The Board of the Pension Protection Fund.

**Receiver** means a receiver or receiver and manager or (where permitted by law) administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment.

**Redcastle (214 Oxford Street) Charge** means the legal charge dated on or about the date of this Deed created by Redcastle (214 Oxford Street) Limited in favour of the Security Trustee.

**Redcastle Finance Share Charge** means the share charge dated on or about the date of this Deed created by Redcastle Finance in favour of the Security Trustee.

**Related Rights** means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset; and
- (c) any monies and proceeds paid or payable in respect of that asset.

**Reservations** means

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and damages may be regarded as an adequate remedy;
- (b) the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally;
- (c) the statutory time-barring of claims;
- (d) defences of set off or counterclaim;
- (e) rules against penalties and similar principles;
- (f) the fact that security which is described as fixed security may in fact be floating security;
- (g) the possibility that an undertaking to assume liability for, or indemnify a person against, non-payment of stamp duty may be void;

- (h) the fact that a court may refuse to give effect to a purported contractual obligation to pay costs imposed upon another person in respect of costs of an unsuccessful litigation brought against that person or may not award by way of costs all of the expenditure incurred by a successful litigant in proceedings brought before that court or that a court may stay proceedings if concurrent proceedings based on the same grounds and between the same parties have previously been brought before another court; and/or
- (i) any steps for perfection not required by the terms of this Deed to be taken.

**Schedule of Contributions** means any Schedule of Contributions (as defined in Section 227 of the Pensions Act 2004) from time to time in place in relation to a Scheme.

**Scheme Actuary** means in relation to a Scheme the scheme actuary from time to time appointed in relation to that Scheme in accordance with Section 47 of the Pensions Act 1995.

**Schemes** means the Arcadia Group Pension Scheme and the Arcadia Group Senior Executives Pension Scheme (and **Scheme** shall mean any one of them).

**Secured Obligations** means subject to Clauses 2.3 (*Calculation of Pension Debt*) and 2.7 (*Limited Recourse*), all amounts payable by the Chargor pursuant to Clause 2.1 (*Covenant to pay*).

**Secured Parties** means the Security Trustee, the Executive Trustee, the Group Trustee and any Receiver (or delegate of any Receiver pursuant to the exercise of powers under Clause 23.2 (*Delegation*)).

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

**Security Trust Deed** means the security trust deed dated on or about the date of this Deed between the Executive Trustee and the Group Trustee.

**TCR Charge** means the legal charge dated on or about the date of this Deed created by Redcastle (TCR) Limited in favour of the Security Trustee.

**TCR Share Charge** means the share charge dated on or about the date of this Deed created by the Chargor in favour of the Security Trustee.

**TSTM** means Top Shop/Top Man Limited, a company incorporated in England and Wales with registered number 02317752.

**VLN Loan Agreement** means the loan agreement between the Chargor and TSTM originally dated 5 December 2012 as amended and restated on or about the date of this Deed.

**VLN Obligors** means TSTM, Top Shop/Top Man Properties Limited and Arcadia Group (USA) Limited.

## **1.2 Interpretation**

In this Deed:

- 1.2.1** the rules of interpretation contained in Clause 1 (*Definitions and interpretation*) of the Pensions Deed shall apply to the construction of this Deed as if set out in this deed mutatis mutandis;
- 1.2.2** any reference to the "Security Trustee", the "Chargor", the "Pension Trustees", the "Secured Parties" or any other person shall be construed so as to include its or their (and any subsequent) successors and any permitted transferees in accordance with their respective interests; and
- 1.2.3** (unless otherwise stated) references in this Deed to any Clause or Schedule shall be to a clause or schedule contained in this Deed.

## **1.3 Third party rights**

- 1.3.1** Unless expressly provided to the contrary in this Deed a person who is not a party hereto has no right under the VLN Documents (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.
- 1.3.2** Notwithstanding any term of this Deed, the consent of any person who is not a party hereto is not required to rescind or vary this Deed at any time.

## **1.4 Inconsistency**

- 1.4.1** In the event of any inconsistency arising between any of the provisions of this Deed and the Pensions Deed, the provisions of this Deed shall prevail.

## **1.5 Deed**

It is intended that this Deed takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

## **2. PAYMENT OF SECURED OBLIGATIONS**

### **2.1 Covenant to pay**

Subject to Clause 2.7 (*Limited Recourse*), the Chargor (as primary obligor and not merely as surety) hereby covenants with the Security Trustee that, upon the occurrence of an Enforcement Event and subject to the terms of the Priority Deed, it will be immediately liable to pay to the Security Trustee an amount equal to the Maximum Secured Amount and such sum shall be immediately due and payable to the Security Trustee.

### **2.2 Maximum aggregate recoveries**

Notwithstanding anything to the contrary in this Deed, the Priority Deed or the Pension Security Trust Deed (other than Clause 2.7 (*Limited recourse*)), the maximum aggregate amount that the Security Trustee and the Pension Trustees may recover against:

- 2.2.1 the Chargor under this Deed;
- 2.2.2 Redcastle Finance Limited under the Redcastle Finance Share Charge; and
- 2.2.3 Redcastle (214 Oxford Street) Limited under the Redcastle (214 Oxford Street) Charge,

(together, the "**Pension Trustee Security Agreements**") shall not exceed the Maximum Secured Amount.

## 2.3 Calculation of Pension Debt:

2.3.1 The Security Trustee shall, at a time after an Enforcement Event but prior to the date on which the proceeds of any enforcement under this Deed are to be applied by the Security Trustee towards payment of the Secured Obligations in accordance with Clause 16 (such time selected by the Security Trustee a "**Nominated Valuation Date**"), subject to paragraph 2.3.3 below, request the Scheme Actuary for each Pension Scheme to calculate and certify (with a copy to the Chargor) the following amount with respect to that Scheme (the "**Section 75 Liability**"):

- (a) if a winding up of a Pension Scheme has not commenced prior to the Nominated Valuation Date, the amount that would become payable by the Chargor to the relevant Pension Trustee under Section 75 of the Pensions Act 1995 if such a debt had unconditionally become due on that Nominated Valuation Date as certified in writing by the Scheme Actuary for that Pension Scheme (for the avoidance of doubt ignoring the value of any debt that has actually become due under Section 75 of the Pensions Act 1995 but has not been paid on or before that date); or
- (b) if a winding up of a Pension Scheme has commenced prior to the Nominated Valuation Date, the amount owed by the Chargor to the relevant Pension Trustee under Section 75 of the Pensions Act 1995 as at the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the trustee for the relevant Pension Scheme following the start of the winding up of that Pension Scheme.

2.3.2 If the aggregate of the Section 75 Liability for each Pension Scheme as most recently certified under this clause 2.3 together with the amount of all recoveries already made by the Pension Trustees pursuant to the Pension Trustee Security Agreements which were taken into account when calculating such Section 75 Liability (the "**Gross Section 75 Liability**") is lower than the Maximum Secured Amount, notwithstanding any other provision of this Deed other than Clause 2.7 (*Limited recourse*), the Secured

Obligations shall be deemed to be an amount equal to the aggregate of that Gross Section 75 Liability for each Pension Scheme.

- 2.3.3** If the Scheme Actuary for each Pension Scheme certifies in writing (with a copy to the Chargor) that the aggregate deficit with respect to each Scheme, calculated in accordance with Section 75 of the Pension Act 1995, is greater than the Maximum Secured Amount, the Scheme Actuary shall not be required to calculate the Section 75 Liability in accordance with paragraph (a) above and this clause 2.3 shall not apply in respect of the application of the relevant proceeds of enforcement.

## **2.4 Application of recoveries**

For the avoidance of doubt, any recoveries under the Pension Trustee Security Agreements received by a Pension Trustee pursuant to the Pension Security Trust Deed shall be treated as discharging the equivalent amount of any debt that is or becomes due and payable by the Chargor to the relevant Pension Trustee pursuant to section 75 of the Pensions Act 1995 to the extent that such recoveries (or the right to receive such recoveries) were not already taken into account in the calculation of such debt. If any such recovery is subsequently voided or reduced by reason of any law relating to insolvency, bankruptcy, liquidation or other similar such law, then any such discharge referable to such recovery shall be correspondingly deemed not to have occurred.

## **2.5 Mitigation Release Date**

If the Mitigation Release Date has occurred in relation to one of the Pension Schemes (the "**Affected Pension Scheme**"), but not the other Pension Scheme and the Security Trustee is notified of that Mitigation Release Date, then with effect from the Mitigation Release Date, this Deed shall cease to have any effect with respect to the Affected Pension Scheme save in respect of any accrued rights to proceeds of the Affected Pension Scheme and any reference in this Deed to:

- 2.5.1** a "Pension Scheme" or the "Pension Schemes", shall exclude the Affected Pension Scheme;
- 2.5.2** a "Pension Trustee" or the "Pension Trustees", shall exclude the trustee of the Affected Pension Scheme;
- 2.5.3** the "Schedule of Contributions", shall exclude the Schedule of Contributions relating to the Affected Pension Scheme;
- 2.5.4** a "Deficit Reduction Contribution", shall not include a Deficit Reduction Contribution with respect to the Affected Pension Scheme;
- 2.5.5** "Section 75 Liability", shall exclude the Section 75 Liability with respect to the Affected Pension Scheme; and

**2.5.6** "Gross Section 75 Liability" in clause 2.3.2 will continue to include all recoveries by both Pension Trustees including the Affected Pension Scheme, save as may be required to give effect to such accrued rights to proceeds.

## **2.6 Proviso**

The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

## **2.7 Limited recourse**

**2.7.1** The aggregate of all of the Chargor's liabilities under this Deed (including for the avoidance of doubt under Clause 2.1) shall at all times and for all purposes be limited to the proceeds recovered from the Assets;

**2.7.2** in no circumstances shall any liability attach to or be enforced or be enforceable under this Deed against the assets of the Chargor other than the Assets; and

**2.7.3** the Security Trustee has no recourse under this Deed to the assets, undertakings, obligations and property held by the Chargor other than the Assets,

**2.7.4** and consequently (and for the avoidance of doubt) the Chargor's payment and repayment obligations under this Deed are limited accordingly.

## **3. ASSIGNMENTS, FIXED CHARGES AND FLOATING CHARGE**

### **3.1 Assignments**

The Chargor hereby assigns by way of security with full title guarantee to the Security Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations, subject to a proviso for re-assignment on redemption, all the Chargor's right, title and interest from time to time in and to each of the following assets in each case both present and future:

**3.1.1** all rights and claims in relation to any Assigned Account; and

**3.1.2** each of the Assigned VLN Documents; and

**3.1.3** all amounts owing under the Assigned VLN Documents,

and all Related Rights in respect of paragraphs 3.1.1, 3.1.2 and 3.1.3 above.

### **3.2 Fixed charge**

The Chargor hereby charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured

Obligations, by way of first fixed charge all the Company's right, title and interest from time to time in and to each of the following assets in each case both present and future:

- 3.2.1      Loan A;
- 3.2.2      all amounts owing to, and all amounts received by, the Chargor in respect of Loan A;
- 3.2.3      all related rights in respect of paragraphs 3.2.1 and 3.2.2 (including under the VLN Loan Agreement).

### 3.3      Floating charge

3.3.1      The Chargor hereby charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations by way of first floating charge all the Chargor's right title and interest from time to time in and to:

- (a)      the Loan B;
- (b)      all amounts owing to, and all amounts received by, the Chargor in respect of Loan B; and
- (c)      all Related Rights in respect of paragraphs (a) and (b) above,

other than any asset which is situated in England and Wales and which is validly and effectively charged under the laws of England and Wales by way of fixed security created under this Deed in favour of the Security Trustee as security for the Secured Obligations.

3.3.2      The floating charge created by this Clause 3.2 shall be deferred in point of priority to all fixed security validly and effectively created by the Chargor under this Deed in favour of the Security Trustee as trustee for the Secured Parties as security for the Secured Obligations.

## 4.      CRYSTALLISATION OF FLOATING CHARGE

### 4.1      Crystallisation: by notice

The Security Trustee may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.2 (*Floating charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if an Enforcement Event has occurred.

### 4.2      Crystallisation: automatic

Notwithstanding Clause 4.1 (*Crystallisation: by notice*) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge as regards all the assets subject to the floating charge if:

- 4.2.1 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed to the Chargor; or
- 4.2.2 any person (who is entitled to do so) gives notice of its intention to appoint an administrator to the Chargor or files such a notice with the court.

## **5. PERFECTION OF SECURITY**

### **5.1 Notices of assignment and charge**

The Chargor shall deliver (or procure delivery) to the Security Trustee and the obligor or debtor specified by the Security Trustee:

- 5.1.1 in respect of each Assigned Account assigned pursuant to Clause 3.1 (*Assignments*), a notice of assignment substantially in the form set out in Schedule 1 (*Form of Notice of Assignment of Account*) duly executed by it promptly upon the Blocked Account being opened or any other account being designated as an Assigned Account; and
- 5.1.2 in respect of each Assigned VLN Document assigned pursuant to Clause 3.1 (*Assignments*) a notice of assignment substantially in the form set out in Schedule 2 (*Form of Notice of Assignment of Assigned VLN Document*) duly executed by it immediately following the Effective Date;
- 5.1.3 in respect of Loan A and all Related Rights charged pursuant to Clause 3.2 (*Fixed charge*):
  - (a) a notice of fixed charge substantially in the form set out in Part A of Schedule 3 (*Form of Notice of Charge Over Loan A*) duly executed by it immediately following the Effective Date; and
  - (b) once the Blocked Account has been opened and notice has been sent in accordance with 5.1.1 above and duly acknowledged by the Account Bank in the form attached to that notice, a notice in the form set out in Part B of Schedule 3 (*Form of Notice of Charge Over Loan A – Blocked Account*);
- 5.1.4 in respect of Loan B and all Related Rights charged pursuant to Clause 3.3 (*Floating Charge*), a notice of charge substantially in the form set out in Schedule 4 (*Form of Notice of Charge*) duly executed by it immediately following the Effective Date,

and in each case the Chargor shall procure that each notice is acknowledged promptly following the receipt of such notice by the recipient of such notice.

## **6. FURTHER ASSURANCE**

### **6.1 Necessary action**



The Chargor shall at its own expense take all such action as is available to it (including making all filings and registrations) as the Security Trustee, any Receiver or administrator may properly consider expedient for the purpose of the creation, perfection, protection, confirmation or maintenance of any security created or intended to be created in favour of the Security Trustee, any Receiver or administrator by or pursuant to this Deed.

## **6.2 Implied covenants for title**

The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

## **6.3 Value of security**

The Chargor shall not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value of the security created or intended to be created by this Deed.

## **7. NEGATIVE PLEDGE**

**7.1** Save as expressly permitted by the terms of the Pensions Deed, the Chargor shall not (and shall not agree to) at any time during the subsistence of this Deed:

**7.1.1** create or permit to subsist any Security over all or any part of the Charged Property;

**7.1.2** create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property; or

**7.1.3** assign or otherwise dispose of any interest in Loan A or any Assigned Account, or the credit balance standing to any such Assigned Account shall be capable of assignment or other disposal.

**7.2** For the avoidance of doubt and notwithstanding anything to the contrary in this Deed, prior to an Enforcement Event, nothing shall prohibit:

**7.2.1** TSTM from making any payment to the Chargor, or the Chargor from receiving any payment, in respect of Loan B, and TSTM shall not be required to make any payment in respect of Loan B into an Assigned Account; or

**7.2.2** the Chargor from agreeing with TSTM not to demand any amount under Loan B with a view to enable TSTM to record Loan B as a non-current liability in its financial statements.

## **8. ASSIGNED ACCOUNTS**

**8.1** The Chargor shall deliver the account opening forms with respect to the Blocked Account to the Account Bank within 5 Business Days after the date of this Deed, and once opened shall promptly deliver to the Security Trustee (and, if any change occurs thereafter, on

the date of such change), details of such Blocked Account. Once opened, the Chargor shall maintain each Assigned Account and shall not, without the Security Trustee's prior written consent, permit or agree to any variation of the rights attaching to any Assigned Account.

**8.2** The Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Assigned Account except with the prior consent of the Security Trustee.

**8.3** The Security Trustee shall, upon the occurrence of an Enforcement Event, be entitled without notice to exercise from time to time all rights, powers and remedies held by it as assignee of the Assigned Accounts and to:

**8.3.1** demand and receive all and any monies due under or arising out of each Assigned Account; and

**8.3.2** exercise all such rights as the Chargor was then entitled to exercise in relation to such Assigned Account or might, but for the terms of this Deed, exercise.

**8.4 Assigned Accounts: application of monies**

Upon the occurrence of an Enforcement Event or this security otherwise becoming enforceable pursuant to Clause 12.1 (*Enforcement*), the Security Trustee shall be entitled without notice to apply, transfer any or all of the credit balances from time to time on the Assigned Account in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 16 (*Application of monies*).

**8.5 Assigned Accounts: representations**

The Chargor represents to the Security Trustee from the date on which each Assigned Account is opened and on each day prior to the release of the security constituted by this Deed in accordance with Clause 20.1 (*Redemption of security*) that:

**8.5.1** no party (other than the Security Trustee) has any rights of set-off or counterclaim in respect of any Assigned Account; and

**8.5.2** none of the Assigned Accounts is the subject of any claim, assertion, right, action or other restriction or arrangement of whatever nature which does or may impinge upon the ownership of the Assigned Accounts by the Chargor.

**9. ASSIGNED VLN DOCUMENTS AND LOAN A**

**9.1** The Chargor shall not at any time during the subsistence of this Deed make or agree to make any amendments, variations or modifications to any Assigned VLN Document, Loan A or the terms applying to Loan A, or waive any of its rights under any Assigned VLN Document or in respect of Loan A, without the prior written consent of the Security Trustee.

- 9.2** The Chargor shall ensure that all amounts received in respect of Loan A are paid:
- 9.2.1** before the Blocked Account has been opened and notice has been sent in accordance with Clause 5.1.1 above and duly acknowledged by the Account Bank in the form attached to that notice, a notice in the form set out in Part B of Schedule 3 (Form of Notice of Charge Over Loan A – Blocked Account), to the Security Trustee to hold as security for the Secured Obligations; and
  - 9.2.2** otherwise to the Blocked Account.
- 9.3** The Security Trustee agrees to the following:
- 9.3.1** TSTM may agree to pay, and the Chargor may agree to receive, payments of interest on a more frequent basis in respect of Loan A and Loan B than as set out in the VLN Loan Agreement and, prior to an Enforcement Event, the Pension Trustees shall apply any amounts paid by TSTM in respect of interest accrued on Loan A towards payment of the Chargor's obligations to make payments to the Schemes in accordance with the Pensions Deed;
  - 9.3.2** prior to an Enforcement Event, the Security Trustee shall not demand any amount under Loan A with a view to enable TSTM to record Loan A as a non-current liability in its financial statements; and
  - 9.3.3** any proceeds that are paid to the Chargor as a secured creditor in connection with the Arcadia USA Insolvency (as defined in the amendment letter relating to the VLN Loan Agreement dated on or about the date of the Deed), may be received by the Chargor to be applied in payment of Loan B.

## **10. REPRESENTATIONS**

The Chargor makes the representations set out in this Clause 10 to the Security Trustee on the date of this Deed and on each day prior to the release of the security constituted by this Deed in accordance with Clause 20.1 (*Redemption of security*):

### **10.1 Status**

- 10.1.1** It is a limited liability company, duly incorporated and validly existing under the laws of England and Wales.
- 10.1.2** It has the power to own its assets and carry on its business as it is being conducted.

### **10.2 Powers and authority**

- 10.2.1** It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, the performance and delivery of, this Deed and the transactions contemplated by it.
- 10.2.2** No limit on its powers will be exceeded as a result of the grant of this Deed.

### **10.3 Non-conflict**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not conflict with:

**10.3.1** any law or regulation applicable to it,

**10.3.2** its constitutional documents; or

**10.3.3** any agreement or instrument binding upon it, including the VLN Documents and any agreement with LGP or constitute a default or termination event (however so described) under any such document.

### **10.4 Legal validity**

Subject to the Reservations, the obligations expressed to be assumed by it in this Deed are legal, binding, valid and enforceable obligations.

## **11. DEFAULT EVENTS**

Each of the events or circumstances set out in this Clause 11 is a Default Event.

### **11.1 Non-payment of DRCs**

The Chargor does not pay on the due date Deficit Reduction Contribution at the place at and in the currency in which it is expressed to be payable unless payment is made within 10 Business Days of written demand by the relevant Pension Trustee.

### **11.2 Failure to re-grant 214 or TCR security**

If, in connection with a Senior Refinancing Event (as defined in clause 5.5 (*Release of Permitted Security upon a Senior Refinancing Event*) of the Intercreditor Agreement) the Security created in favour of the Security Trustee pursuant to the Redcastle (214 Oxford Street) Charge, the Redcastle Finance Share Charge the TCR Legal Charge and/or the TCR Share Charge (the "**Existing Security**") is released and second ranking security which is equivalent in all material respects to the Existing Security is not created in favour of the Pension Trustees (or a security trustee on their behalf) within five Business Days of that release (or such later date as agreed with the Pension Trustees).

### **11.3 Insolvency**

An Insolvency Event occurs with respect to the Chargor.

### **11.4 Indirect Disposal Event**

A breach of clause 7.5(h) or (i) of the Pensions Deed occurs.

## **12. ENFORCEMENT OF SECURITY**

### **12.1 Enforcement**

At any time after the occurrence of an Enforcement Event, or if the Chargor requests the Security Trustee to exercise any of its powers under this Deed, the security created by or pursuant to this Deed is immediately enforceable and the Security Trustee may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

**12.1.1** enforce all or any part of that security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Charged Property and the Security Trustee (or its nominee(s)) shall have an immediate and absolute power of sale or other disposition over the Charged Property; and

**12.1.2** whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the LPA (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

### **12.2 No liability as mortgagee in possession**

Neither the Security Trustee nor any of its nominees nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable.

### **12.3 Right of appropriation**

To the extent that any of the Charged Property constitutes "financial collateral" and this Deed and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the "**Regulations**")), following the occurrence of an Enforcement Event, the Security Trustee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be, in the case of cash, the amount standing to the credit of each of the Assigned Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised. The parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

### **12.4 Effect of moratorium**

The Security Trustee shall not be entitled to exercise its rights under Clause 12.1 (*Enforcement*), Clause 14.1 (*Appointment and removal*) (other than Clause 14.1.4) or Clause 4 (*Crystallisation of floating charge*) where the right arises as a result of an

Enforcement Event occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the Insolvency Act 1986.

### **13. EXTENSION AND VARIATION OF THE LPA**

#### **13.1 Extension of powers**

The power of sale or other disposal conferred on the Security Trustee, its nominee(s) and any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under Section 101 of the LPA and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Deed.

#### **13.2 Restrictions**

The restrictions contained in Sections 93 and 103 of the LPA shall not apply to this Deed or to the exercise by the Security Trustee of its right to consolidate all or any of the Charges with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Security Trustee without notice to the Chargor on or at any time after the occurrence of an Enforcement Event.

#### **13.3 Transfer of Security**

**13.3.1** At any time after the occurrence of an Enforcement Event, the Security Trustee may:

- (a) redeem any prior Security against any Charged Property; and/or
- (b) procure the transfer of any such Security to itself; and/or
- (c) settle and pass the accounts of the prior mortgagee or Security Trustee; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.

**13.3.2** The Chargor shall pay to the Security Trustee immediately on demand the costs and expenses incurred by the Security Trustee in taking any action contemplated by Clause 13.3.1, including the payment of any principal or interest.

#### **13.4 Suspense account**

If the Charges are enforced at a time when no amount is due to the Security Trustee under this Deed or otherwise, but at a time when amounts may or will become due, the Security Trustee (or any Receiver) may hold the proceeds of any recoveries effected by it in a suspense account pending their application against such amounts.

### **14. APPOINTMENT OF RECEIVER**

#### **14.1 Appointment and removal**

After the occurrence of an Enforcement Event or if requested to do so by the Chargor, the Security Trustee may by deed or otherwise (acting through an authorised officer of the Security Trustee), without prior notice to the Chargor:

- 14.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Charged Property;
- 14.1.2 appoint two or more Receivers of separate parts of the Charged Property;
- 14.1.3 remove (so far as it is lawfully able) any Receiver so appointed; and
- 14.1.4 appoint another person(s) as an additional or replacement Receiver(s).

## **14.2 Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 14.1 (*Appointment and removal*) shall be:

- 14.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 14.2.2 for all purposes deemed to be the agent of the Chargor which shall be solely responsible for their acts, defaults and liabilities and for the payment of their remuneration and no Receiver shall at any time act as agent for the Security Trustee; and
- 14.2.3 entitled to remuneration for their services at a rate to be fixed by the Security Trustee from time to time (without being limited to the maximum rate specified by the LPA).

## **14.3 Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Trustee under the LPA (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Security Trustee in respect of any part of the Charged Property. Except as provided in Clause 12.4 (*Effect of moratorium*), any restriction imposed by law on the right of a mortgagee to appoint a receiver (including under section 109(1) of the LPA) does not apply to this Deed.

## **15. POWERS OF RECEIVER**

Every Receiver shall (subject to any restrictions in the instrument appointing them but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Property (and any assets of the Chargor which, when got in, would be Charged Property) in respect of which the Receiver was appointed, and as varied and extended by the provisions of this Deed (in the name of or on behalf of the Chargor or in their own name and, in each case, at the cost of the Chargor):

- 15.1.1** all the powers conferred by the LPA on mortgagors and on mortgagees in possession and on receivers appointed under the LPA;
- 15.1.2** all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 15.1.3** all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 15.1.4** the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to (a) any of the functions, powers, authorities or discretions conferred on or vested in them or (b) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Property) or (c) bringing to their hands any assets of the Chargor forming part of, or which when got in would be, Charged Property.

## **16. APPLICATION OF MONIES**

All monies received or recovered by the Security Trustee, its nominee(s) or any Receiver pursuant to this Deed or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of their remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of their powers, and thereafter (subject to Clause 2.2 (*Maximum aggregate recoveries*), Clause 2.3 (*Calculation of Pension Debt*) and Clause 2.7 (*Limited Recourse*)) shall be applied by the Security Trustee (notwithstanding any purported appropriation by the Chargor) in accordance with the Security Trust Deed.

## **17. PROTECTION OF PURCHASERS**

### **17.1 Consideration**

The receipt of the Security Trustee, its nominee(s) or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Security Trustee, its nominee(s) or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

### **17.2 Protection of purchasers**

No purchaser or other person dealing with the Security Trustee, its nominee(s) or any Receiver shall be bound to inquire whether the right of the Security Trustee, such nominee(s) or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Trustee, such nominee(s) or such Receiver in such dealings.



## **18. POWER OF ATTORNEY**

### **18.1 Appointment and powers**

The Chargor by way of security irrevocably appoints the Security Trustee and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

**18.1.1** carrying out any obligation imposed on the Chargor by this Deed (including the completion, execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Property); and

**18.1.2** enabling the Security Trustee and any Receiver to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Charged Property) and (without prejudice to the generality of the foregoing) to execute as a deed or under hand and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may reasonably deem proper in or for the purpose of exercising any of such rights, powers, authorities and discretions.

### **18.2 Exercise of power of attorney**

The Security Trustee may only exercise the power of attorney granted pursuant to Clause 18.1 (*Appointment and powers*) following:

**18.2.1** the occurrence of an Enforcement Event; or

**18.2.2** the failure by the Chargor to comply with any further assurance or perfection of security obligations required by the terms of this Deed within five Business Days of such further assurance or perfection of security obligation arising.

### **18.3 Ratification**

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of their powers.

### **18.4 Security Trustee's power to remedy breaches**

If at any time the Chargor fails to perform any of the covenants contained in this Deed it shall be lawful for the Security Trustee, but the Security Trustee shall have no obligation, to take such action on behalf of the Chargor (including, without limitation, the payment of money) as may in the Security Trustee's reasonable opinion be required to ensure that such covenants are performed. Any losses, costs, charges and expenses incurred by the Security Trustee in taking such action shall be reimbursed by the Chargor on demand.

## **19. EFFECTIVENESS OF SECURITY**

### **19.1 Continuing security**

**19.1.1** The Charges shall remain in full force and effect as a continuing security for the Secured Obligations unless and until the Secured Obligations have been irrevocably and unconditionally discharged in full.

**19.1.2** No part of the security from time to time intended to be constituted by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

### **19.2 Cumulative rights**

The Charges and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Security Trustee or any Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Charged Property shall merge into the security constituted by this Deed.

### **19.3 Remedies and waivers**

No failure on the part of the Security Trustee to exercise, or any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right, nor shall any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

### **19.4 No liability**

None of the Security Trustee, its nominee(s) or any Receiver shall be liable by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property.

### **19.5 Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

## **19.6 Waiver of defences**

Neither the obligations of the Chargor under this Deed nor the Charges will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any of the Charges (without limitation and whether or not known to it or any Secured Party) including:

- 19.6.1** any time, waiver or consent granted to, or composition with, any person; or
- 19.6.2** the release of any person under the terms of any composition or arrangement with any creditor of any member of the Group; or
- 19.6.3** the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any 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; or
- 19.6.4** any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person; or
- 19.6.5** any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature) or replacement of the Pensions Deed or any Schedule of Contributions or any other document or security or of the Secured Obligations (including, without limitation, any increase to the Secured Obligations from time to time); or
- 19.6.6** any unenforceability, illegality or invalidity of any obligation of any person under the Pensions Deed or any other document or security or of the Secured Obligations; or
- 19.6.7** any insolvency or similar proceedings.

## **19.7 Immediate recourse**

The Chargor waives any right it may have of first requiring any Secured Party (or the Security Trustee or agent on its behalf) to proceed against the Chargor or any other person or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of this Deed to the contrary.

## **19.8 Deferral of rights**

Until such time as the Secured Obligations have been discharged in full, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- 19.8.1** to be indemnified by any Obligor;

- 19.8.2 to claim any contribution from any guarantor of the Chargor's obligations under this Deed or under any other document;
- 19.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under any other guarantee or security taken pursuant to, or in connection with, this Deed by any Secured Party;
- 19.8.4 to bring legal or other proceedings for an order requiring any other person to make any payment, or perform any obligation, in respect of which any person has given a guarantee, undertaking or indemnity under this Deed;
- 19.8.5 to exercise any right of set-off against any other person; and/or
- 19.8.6 to claim or prove as a creditor of any other person in competition with any Secured Party.

## 19.9 Chargor intent

Without prejudice to the generality of Clause 19.6 (*Waiver of defences*), the Chargor expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Pensions Deed or the Secured Obligations.

## 20. RELEASE OF SECURITY

### 20.1 Redemption of security

Upon the Secured Obligations being irrevocably and unconditionally discharged in full or if otherwise required in accordance with the terms of the Pensions Deed, the Security Trustee shall, at the request and cost of the Chargor, release and cancel the security constituted by this Deed and procure the reassignment to the Chargor of the property and assets assigned to the Security Trustee pursuant to this Deed and take whatever action as is reasonably necessary or desirable in the opinion of the Chargor (acting reasonably), in each case subject to Clause 20.2 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Security Trustee or any of its nominees.

### 20.2 Avoidance of payments

If the Security Trustee considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under, and the security created by, this Deed shall continue and such amount shall not be considered to have been irrevocably paid.

## 21. ASSIGNMENT

The Security Trustee may not assign or transfer all or any of its rights and obligations under this Deed without the consent of the Chargor, provided that no such consent will

be required for the assignment or transfer of such rights and obligations to a successor Security Trustee or a statutory transfer to the Pension Protection Fund. The Security Trustee shall be entitled to disclose such information concerning the Chargor and this Deed as the Security Trustee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

## **22. NOTICES**

The provisions of clause 16 (*Notices*) of the Pensions Deed shall apply to this Deed.

## **23. DISCRETION AND DELEGATION**

### **23.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Security Trustee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### **23.2 Delegation**

Each of the Security Trustee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Security Trustee or the Receiver itself. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## **24. COUNTERPARTS**

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

## **25. GOVERNING LAW**

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

## **26. JURISDICTION OF ENGLISH COURTS**

**26.1** The courts of England have exclusive jurisdiction to settle any dispute arising out of, or connected with this Deed (including a dispute regarding the existence, validity or termination of this Deed or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Deed) (a "**Dispute**").

**26.2** The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

**26.3** Notwithstanding Clause 26.1 above, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Security Trustee may take concurrent proceedings in any number of jurisdictions.

**THIS DEED** has been signed on behalf of the Security Trustee and executed as a deed by the Chargor and is delivered by it on the date specified above.

**SCHEDULE 1**  
**FORM OF NOTICE OF ASSIGNMENT OF ACCOUNT**

To: [Account Bank]

Date: [•]

To whom it may concern,

**Re: Arcadia Group Limited – Security over Bank Account**

Name of Account	Account number and sort code

We hereby give you notice that we have assigned and charged to Arcadia Group Pension Trust Limited (the "**Security Trustee**") pursuant to a Deed entered into by us in favour of the Security Trustee dated 2019 all of our right, title and interest in and to the account with you listed above (including any renewal or redesignation of such account) and all monies standing to the credit of that account from time to time (the "**Blocked Account**").

With effect from the date of your receipt of this notice:

1. any existing payment instructions affecting the Blocked Account are to be terminated and all payments and communications in respect of the Blocked Account should be made to the Security Trustee or to its order (with a copy to us); and
2. we are not entitled to receive, withdraw or otherwise transfer any credit balance from time to time on the Blocked Account until you receive written notice from the Security Trustee that the Blocked Account is no longer blocked.

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

Please accept this notice by signing the enclosed acknowledgement and returning it to the Security Trustee at [•] marked for the attention of [•].

Yours faithfully

.....  
For and on behalf of  
Arcadia Group Limited

To: Arcadia Group Pension Trust Limited

Date: [•]

At the request of the Security Trustee and Arcadia Group Limited we acknowledge receipt of the notice of assignment and charge, on the terms attached, in respect of the Blocked Account (as described in those terms). We confirm and agree that:

1. the balance standing to the Blocked Account at today's date is [zero], no fees or periodic charges are payable in respect of the Blocked Account and there are no restrictions on (a) the payment of the credit balance on the Blocked Account (except, in the case of a time deposit, the expiry of the relevant period) or (b) the assignment of the Blocked Account to the Security Trustee or any third party;
2. we have not received notice of any previous assignments of, charges over or trusts in respect of, the Blocked Account;
3. we hereby waive any right we have or may hereafter acquire to combine, consolidate or merge the Blocked Account with any other account of Arcadia Group Limited or any other person, or any liabilities of Arcadia Group Limited, the Security Trustee or any other person;
4. we shall not exercise any lien over or set off, transfer, combine or withhold payment of any sum standing to the credit of or to be credited to the Blocked Account in or towards satisfaction of any liabilities of Arcadia Group Limited, the Security Trustee or any other person, unless we are required to do so by law, in which case we shall ensure that the amount of the lien, set off, transfer or withholding does not exceed the amount required by law;
5. we shall not amend or vary any rights attaching to the Blocked Account without the prior consent of the Security Trustee;
6. we will disclose to the Security Trustee any information relating to the Blocked Account which the Security Trustee may from time to time request;
7. we will hold all monies from time to time standing to the credit of the Blocked Account to the order of the Security Trustee and will pay all or any part of those monies to the Security Trustee (or as it may direct) promptly following receipt of written instructions from the Security Trustee to that effect; and
8. we will act only in accordance with the instructions given by persons authorised by the Security Trustee and we shall send all statements and other notices given by us relating to the Account to the Security Trustee.



EXECUTED as a DEED )

by HSBC UK BANK PLC )

in the presence of .....

Authorised signatory

Signature of witness: .....

Name of witness: .....

Address of witness: .....

.....

Occupation of witness: .....

**SCHEDULE 2**  
**FORM OF NOTICE OF ASSIGNMENT OF ASSIGNED VLN DOCUMENTS**

To: Top Shop/Top Man Limited  
Top Shop/Top Man Properties Limited  
Arcadia Group (USA) Limited

Date: [•]

To whom it may concern,

We hereby give you notice that we have assigned by way of security to Arcadia Group Pension Trust Limited ("**Security Trustee**") pursuant to a Deed entered into by us in favour of the Security Trustee dated [•] (the "**Deed**") all our right, title and interest in and to:

1. The Fixed and Floating Security Document dated 5 December 2012 created by Top Shop/Top Man Limited, Top Shop/Top Man Properties Limited and Arcadia Group (USA) Limited in favour of Arcadia Group Limited (the "**VLN Document**")

including all monies which may be payable to us in respect of the VLN Document.

With effect from the date of your receipt of this notice:

1. other than any proceeds that are paid to the Chargor as a secured creditor in connection with the Arcadia USA Insolvency (as defined in the amendment letter relating to the VLN Loan Agreement dated on or about the date of the Deed), which proceeds should be paid to the Chargor, all payments under or arising from the VLN Document should be made to the following account until such time as you receive notice from the Security Trustee instructing you otherwise ("**Enforcement Event Notice**"):

Account name: Arcadia Group Pension Scheme current account

Sort Code: [REDACTED]

Account number: [REDACTED]

Account IBAN: [REDACTED]

BIC: [REDACTED]

Upon receipt of an Enforcement Event Notice we instruct you to comply with all payment instructions in respect of any payments to be made under or arising from the VLN Document as set out in the Enforcement Event Notice;

2. all remedies provided for in the VLN Document or available at law or in equity are exercisable by the Security Trustee to the exclusion of the Chargor (but may only be exercised by the Security Trustee after an Enforcement Event has occurred);
3. all rights to compel performance of the VLN Document are exercisable by the Security Trustee to the exclusion of the Chargor (but may only be exercised by the Security

Trustee after an Enforcement Event has occurred) although the Chargor shall remain liable to perform all the obligations assumed by it under the VLN Document;

4. except as referred to in paragraph 1 above, all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the VLN Document belong to the Security Trustee to the exclusion of the Chargor (but may only be exercised by the Security Trustee after an Enforcement Event has occurred) and no changes may be made to the terms of the VLN Document without the Security Trustee's prior consent;
5. you are authorised and instructed, without requiring further approval from us, to provide the Security Trustee with such information relating to the VLN Document as it may from time to time request and to send it copies of all notices issued by you under the VLN Documents to the Security Trustee as well as to us; and
6. these instructions may not be revoked, nor may the terms of the VLN Document be amended, varied or waived without the prior written consent of the Security Trustee.

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

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Trustee at [•] marked for the attention of [•].

Yours faithfully

.....  
For and on behalf of  
Arcadia Group Limited

To: Arcadia Group Pension Trust Limited

Date: [•]

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, interests and benefits in and to the VLN Document and that we will comply with the terms of that notice.

We further confirm that no amendment, waiver or release of any of such rights, interests and benefits arising under the VLN Document shall be effective without the prior written consent of the Security Trustee.

EXECUTED as a DEED )  
by TOP SHOP/TOP MAN LIMITED )  
in the presence of .....  
Director

Signature of witness: .....  
Name of witness: .....  
Address of witness: .....  
Occupation of witness: .....

EXECUTED as a DEED )  
by TOP SHOP/TOP MAN PROPERTIES )  
LIMITED )  
in the presence of .....  
Director

Signature of witness: .....  
Name of witness: .....  
Address of witness: .....  
Occupation of witness: .....

EXECUTED as a DEED )  
by ARCADIA GROUP (USA) LIMITED )  
in the presence of .....  
Director

Signature of witness: .....  
Name of witness: .....  
Address of witness: .....  
Occupation of witness: .....

**SCHEDULE 3**  
**PART A**  
**FORM OF NOTICE OF CHARGE OVER LOAN A**

To whom it may concern,

We hereby give you notice that we have charged by way of fixed charge to Arcadia Group Pension Trust Limited ("**Security Trustee**") pursuant to a Deed entered into by us in favour of the Security Trustee dated [•] (the "**Deed**") all our right, title and interest in and to:

Loan A under the loan agreement between Top Shop/Top Man Limited originally dated 5 December 2012 as amended and restated on or about the date of this notice (the "**VLN Loan Agreement**") including all monies which may be payable to us in respect of Loan A including all monies which may be payable to us in respect of Loan A.

With effect from the date of your receipt of this notice:

1. all payments by you to us under or arising from the Loan A should be made to the following account until such time as you receive notice from the Security Trustee instructing you otherwise ("**Enforcement Event Notice**"):

Account name: Arcadia Group Pension Scheme current account Sort Code: [REDACTED]

Account number: [REDACTED]

Account IBAN: [REDACTED]

BIC: [REDACTED]

Upon receipt of an Enforcement Event Notice we instruct you to comply with all payment instructions in respect of any payments to be made under or arising from Loan A as set out in the Enforcement Event Notice;

2. all remedies provided for in the VLN Loan Agreement which relate to Loan A or available at law or in equity are exercisable by the Security Trustee;
3. all rights to compel performance of the VLN Loan Agreement which relate to Loan A are exercisable by the Security Trustee although the Chargor shall remain liable to perform all the obligations assumed by it under the VLN Loan Agreement;
4. all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the VLN Loan Agreement in respect of Loan A belong to the Security Trustee to the exclusion of the Chargor and no changes may be made to the terms which relate to Loan A without the Security Trustee's prior consent;
5. you are authorised and instructed, without requiring further approval from us, to provide the Security Trustee with such information relating to the VLN Loan Agreement as it may from time to time request and to send it copies of all notices issued by you under the VLN Loan Agreement to the Security Trustee as well as to us; and
6. these instructions may not be revoked, nor may the terms which relate to Loan A be amended, varied or waived without the prior written consent of the Security Trustee.

The above is subject to the consents given by the Security Trustee in Clause 9.3 of the Deed.

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

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Trustee at [•] marked for the attention of [•].

Yours faithfully

.....  
For and on behalf of  
Arcadia Group Limited

To: Arcadia Group Pension Trust Limited

Date: [ ]

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, interests and benefits in and to the VLN Agreement and that we will comply with the terms of that notice.

We further confirm that no amendment, waiver or release of any of such rights, interests and benefits arising under the VLN Agreement in respect of Loan A shall be effective without the prior written consent of the Security Trustee.

EXECUTED as a DEED

by TOP SHOP/TOP MAN LIMITED )

in the presence of .....

Director

Signature of witness: .....

Name of witness: .....

Address of witness: .....

Occupation of witness: .....

**Schedule 3**  
**Part B**  
**Form of Notice of Charge over Loan A – Blocked Account**

We refer to the notice (the "**Original Notice of Charge**") dated [•] pursuant to which we notified you that we have charged by way of fixed charge to Arcadia Group Pension Trust Limited ("**Security Trustee**") pursuant to a Deed entered into by us in favour of the Security Trustee dated [•] (the "**Deed**") all our right, title and interest in and to:

Loan A under the loan agreement between Top Shop/Top Man Limited originally dated 5 December 2012 as amended and restated on or about the date of this notice (the "**VLN Loan Agreement**") including all monies which may be payable to us in respect of Loan A.

With effect from the date of your receipt of this notice, all payments by you to us under or arising from the Loan A should be made to the following account until such time as you receive notice from the Security Trustee instructing you otherwise:

[*Blocked Account details*]

All other terms of the Original Notice of Charge continue to apply.

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

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Trustee at [•] marked for the attention of [•].

Yours faithfully

.....  
For and on behalf of  
Arcadia Group Limited

We confirm that we consent to the instructions set out above

.....  
For and on behalf of  
Arcadia Group Pension Trust Limited



To: Arcadia Group Pension Trust Limited

Date: [●]

We acknowledge receipt of a notice in the terms set out above and confirm that we will comply with the terms of that notice.

EXECUTED as a DEED )

by TOP SHOP/TOP MAN LIMITED )

in the presence of \_\_\_\_\_

Director

Signature of witness: .....

Name of witness: .....

Address of witness: .....

Occupation of witness: .....

**SCHEDULE 4**  
**FORM OF NOTICE OF CHARGE OVER LOAN B**

To: Top Shop/Top Man Limited

Date: [•]

To whom it may concern,

We hereby give you notice that we have charged to Arcadia Group Pension Trust Limited ("**Security Trustee**") pursuant to a Deed entered into by us in favour of the Security Trustee dated [•] (the "**Deed**") all our right, title and interest in and to Loan B under the loan agreement between Top Shop/Top Man Limited originally dated 5 December 2012 as amended and restated on or about the date of this notice (the "**VLN Loan Agreement** ") including all monies which may be payable to us in respect of the Loan B.

With effect from the date of your receipt of this notice:

1. all payments by you to us under or arising from Loan B should be made to us to such account as we may specify to you from time to time until such time as you receive notice from the Security Trustee instructing you otherwise (an "**Enforcement Event Notice**"). Upon receipt of an Enforcement Event Notice we instruct you to comply with all payment instructions in respect of any payments to be made under or arising from the Loan B as set out in the Enforcement Event Notice;
2. upon your receipt of an Enforcement Event Notice from the Security Trustee:
  - 2.1 all remedies provided for in the VLN Loan Agreement (including those which relate to Loan B) or available at law or in equity are exercisable by the Security Trustee;
  - 2.2 all rights to compel performance of the VLN Loan Agreement (including payment of amounts owing in respect of Loan B) are exercisable by the Security Trustee although the Chargor shall remain liable to perform all the obligations assumed by it under the VLN Loan Agreement; and
  - 2.3 all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the VLN Loan Agreement (including those in respect of Loan B) belong to the Security Trustee to the exclusion of the Chargor and no changes may be made to the terms of the VLN Loan Agreement;
3. you are authorised and instructed, without requiring further approval from us, to provide the Security Trustee with such information relating to the VLN Loan Agreement as it may from time to time request and to send it copies of all notices issued by you under the VLN Loan Agreement to the Security Trustee as well as to us; and

4. these instructions may not be revoked, nor may the terms of the VLN Loan Agreement be amended, varied or waived without the prior written consent of the Security Trustee.

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

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Trustee at [•] marked for the attention of [•].

Yours faithfully

For and on behalf of  
Arcadia Group Limited



SIGNATURES

The Chargor

EXECUTED as a DEED )

by ARCADIA GROUP LIMITED )

in the presence of

[Redacted Signature]

Director

[Redacted Signature]

Witness signature

Name of witness: PHILIPPA GOULDE

Address: COLLEGE HOUSE, 10 BERNERS STREET, LONDON, W1T 3NL

Occupation: [Redacted]

The Security Trustee

EXECUTED as a DEED )

by ARCADIA GROUP PENSION )

TRUST LIMITED )

in the presence of

Director

Witness signature

Name of witness: .....

Address: .....

Occupation: .....

**SIGNATURES**

**The Chargor**

EXECUTED as a DEED )  
by ARCADIA GROUP LIMITED )  
in the presence of

.....  
Director

.....  
Witness signature

Name of witness: .....

Address: .....

Occupation: .....

**The Security Trustee**

EXECUTED as a DEED )  
by ARCADIA GROUP PENSION )  
TRUST LIMITED )  
in the presence of

.....  
Director

.....  
Witness signature

Natalie Margaret Scoones

Name of witness: .....

Address: .....

Occupation: .....

TRAVERS SMITH LLP  
10 SNOW HILL  
LONDON EC1A 2AL  
TEL: 020 7295 3000