



Registration of a Charge

Company Name: **C. & J. CLARK INTERNATIONAL LIMITED**

Company Number: **00141015**



Received for filing in Electronic Format on the: **23/06/2022**

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Details of Charge

Date of creation: **21/06/2022**

Charge code: **0014 1015 0007**

Persons entitled: **BANK OF AMERICA, N.A.**

Brief description: **NO LAND, SHIP, AIRCRAFT OR INTELLECTUAL PROPERTY IS CHARGED BY THE INSTRUMENT. PLEASE REFER TO THE INSTRUMENT FOR FULL DETAILS OF THE CHARGES CREATED. PLEASE REFER TO THE INSTRUMENT FOR FULL DETAILS OF THE CHARGE CREATED.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

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.**

Certified by: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 141015

Charge code: 0014 1015 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st June 2022 and created by C. & J. CLARK INTERNATIONAL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd June 2022 .

Given at Companies House, Cardiff on 24th June 2022

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**

Confidential

I certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the electronic copy of the original instrument.

Norton Rose Fulbright LLP

Date: 22 June 2022

Execution Version

1001198593

Dated

21 June 2022

C. & J. CLARK INTERNATIONAL LIMITED

as Pledgor

and

BANK OF AMERICA, N.A.

as Pledgee

MOVABLES PLEDGE

 **NORTON ROSE FULBRIGHT**

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THIS DEED is entered into between:

- (1) **C. & J. CLARK INTERNATIONAL LIMITED**, a private limited company incorporated under the laws of England and Wales, having its registered office at 40 High Street, Street, Somerset, BA16 0EQ, United Kingdom, registered with the Companies House for England and Wales under number 00141015 (the **Pledgor**); and
- (2) **BANK OF AMERICA, N.A.**, acting in its capacity as Security Agent (the **Pledgee**).

BACKGROUND:

This Deed is entered into in connection with the facility agreement dated on or about the date of this Deed between, among others, C&J Clark (No 1) Limited as Parent (the **Parent**), certain subsidiaries of the Parent listed therein as Original Borrowers and Original Guarantors, the financial institutions listed therein as Original Lenders and Bank of America, N.A. as Arranger, Agent and Security Agent (the **Facility Agreement**).

IT IS AGREED as follows:

1 Definitions and interpretation

Defined expressions

- 1.1 Unless otherwise defined in this Deed, terms defined (directly or by reference) in the Facility Agreement have the same meaning when used in this Deed.

Definitions

- 1.2 In this Deed:

Deed means this deed of pledge

Encumbrance means any Security, any (other) right in rem (*beperkt recht*), any seizure or attachment (*beslag*)

Movable Assets means all present and future movable assets (*roerende zaken*) owned by the Pledgor or acquired at any time after the date of this Deed, including but not limited to all movable assets located in any location listed in Schedule 1 (*List of Movable Assets Locations*) from time to time and any Title Documents, which:

- (a) are situated in the Netherlands or in-transit to the Netherlands pursuant to an agreement of international transport at the time such movable assets are acquired by the Pledgor;

- (b) have become situated in the Netherlands at any time after such movable assets are acquired by the Pledgor; or
- (c) are or become situated in any other jurisdiction in which such movable assets are capable of being pledged pursuant to this Deed,

in each case, regardless of whether such movable assets are subsequently moved to another jurisdiction, and any such movable assets in respect of which the Pledgor has or acquires a conditional interest (*voorwaardelijk recht*) pursuant to an acquisition subject to a retention of title arrangement (*eigendomsvoorbehoud*) or, as applicable, any such conditional interest itself, to the extent capable of being pledged under Dutch law

Notification means a notice letter substantially in the form of Schedule 2 (*Form of Warehouse Notification*) or a notification in another form satisfactory to the Pledgee

Parallel Debt Obligations has the meaning given thereto in clause 2 (*Parallel Debt*)

Pledge means each right of pledge (*pandrecht*) created pursuant to this Deed

Power of Attorney means each power of attorney (*volmacht*) granted by the Pledgor to the Pledgee in this Deed

Principal Obligations means any and all obligations and liabilities (whether present or future, actual or contingent, joint or several) of any Obligor to any Secured Party under or in connection with the Facility Agreement and the other Finance Documents and any and all other 'Secured Obligations' as defined in the Intercreditor Agreement, in each case, to the extent that these are, result in, or are determined to become obligations and liabilities for the payment of an amount of money

Secured Obligations means the Principal Obligations and the Parallel Debt Obligations

Title Documents means:

- (a) bills of exchange, promissory notes and other negotiable instruments of any description;
- (b) bills of lading, warrants, delivery orders, wharfingers' or warehouse keepers' warrants or receipts, policies and certificates of insurance; and
- (c) any and all other documents of title

Warehouse Keeper means any person storing Movable Assets on behalf of the Pledgor or with whom the Pledgor has an agreement to store any Movable Assets from time to time, including but not limited to each person other than the Pledgor listed in Schedule 1 (*List of Locations*).

Interpretation

1.3 In this Deed:

- (a) the table of contents and the headings are inserted for convenience only and do not affect the interpretation of this Deed;
- (b) a reference to a clause or section without further reference is a reference to the relevant clause or section of this Deed;
- (c) a reference to the Facility Agreement or any other Finance Document or any other document or agreement is a reference to the Facility Agreement or that Finance Document or other document or agreement as from time to time amended, supplemented, restated, modified, novated, or replaced, however fundamentally;
- (d) references to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity, whether or not having separate legal personality;
- (e) references to a person include its successors in title, permitted assignees and permitted transferees;
- (f) words importing the plural include the singular and vice versa;
- (g) 'ordinary course of its business' means, in respect of the Pledgor, the ordinary course of its business as it is being conducted on the date of this Deed;
- (h) references to any enactment include that enactment as re-enacted; and, if an enactment is amended, any provision of this Deed which refers to that enactment will be amended in such manner as the Pledgee, after consultation with the Pledgor, determines to be necessary in order to preserve the intended effect of this Deed; and
- (i) a 'right of pledge' includes in respect of any relevant jurisdiction a 'security interest' and 'capable of being pledged' includes capable of being made subject to a 'security interest'.

Continuing security

- 1.4 The Pledge is a continuing security for the payment of the Secured Obligations and the Pledge shall not be satisfied by any intermediate payment or satisfaction of any part of the Secured Obligations or by any settlement in respect of the Secured Obligations.
- 1.5 The Pledge shall secure the Secured Obligations as they may be amended as a result of a modification, amendment, release or waiver of any of the terms and conditions of any Finance Document or other document documenting, guaranteeing or securing the Secured Obligations

and no such amendment shall discharge or otherwise prejudice or affect the Pledge and/or any right of the Pledgee under this Deed.

Third parties

- 1.6 The rights expressly conferred on and/or provisions expressly stipulated for the benefit of the officers, employees and agents of the Pledgee are enforceable by each of them under section 6:253 of the Dutch Civil Code.
- 1.7 No other term of this Deed constitutes a provision for the benefit of a third party within the meaning of section 6:253 of the Dutch Civil Code and accordingly a person who is not a party to this Deed has no right to enforce, invoke or enjoy the benefit of any other term of this Deed.

Intercreditor Agreement

- 1.8 This Deed is subject to the Intercreditor Agreement and, in the event of any inconsistency between the terms of this Deed and the terms of the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail, except to the extent it would affect the validity of the Pledge.

2 Parallel Debt

- 2.1 In order to ensure the validity and enforceability of the Pledge for the benefit of the Secured Parties, the Pledgor hereby irrevocably and unconditionally undertakes (the resulting liabilities and obligations under that undertaking in respect of any amount, a **Parallel Debt Obligation** and in respect of all of them, the **Parallel Debt Obligations**) to pay to the Pledgee amounts equal to and in the same currency as all amounts from time to time due and payable by any Obligor to any Secured Party under the Principal Obligations.
- 2.2 Each Parallel Debt Obligation shall become due and payable (*opeisbaar*) at the same time as the corresponding Principal Obligation.
- 2.3 The Parallel Debt Obligations shall be separate from and independent of the Principal Obligations, so that the Pledgee will have its own independent right to demand payment of the Parallel Debt Obligations by the Pledgor.
- 2.4 The Parallel Debt Obligations shall be owed to the Pledgee in its own name and not as agent or representative of the Secured Parties.
- 2.5 Other than as set out in clause 2.6 below, the Parallel Debt Obligations shall not limit or affect the existence of the Principal Obligations, for which the Secured Parties shall have an independent right to demand performance.
- 2.6 The rights of the Secured Parties to receive payment of the Principal Obligations are several from the rights of the Pledgee to receive payment of the Parallel Debt Obligations, provided that:

- (a) payment by the Pledgor of its Parallel Debt Obligations in accordance with this clause shall to the same extent decrease and discharge the corresponding Principal Obligations owing to the Secured Parties; and
- (b) payment by any Obligor of its corresponding Principal Obligations in accordance with the Finance Documents shall to the same extent decrease and discharge the relevant Parallel Debt Obligations.

3 Pledge undertaking

- 3.1 As security for the prompt payment of the Secured Obligations, the Pledgor agrees to grant and agrees to grant in advance (*bij voorbaat*) to the Pledgee a right of pledge over its Movable Assets, which the Pledgee agrees to accept and agrees to accept in advance.
- 3.2 Without prejudice to the rights and claims of the Pledgee or any representations or warranties of the Pledgor, where the Pledge cannot rank first, the Pledgor and the Pledgee intend to create a right of pledge with the highest possible rank.

4 Pledge

As security for the prompt payment of the Secured Obligations, the Pledgor hereby grants and grants in advance to the Pledgee a right of pledge over its Movable Assets, which the Pledgee hereby accepts and accepts in advance, being:

- (a) a non-possessory right of pledge (*bezitloos pandrecht*) over the Movable Assets upon registration of this Deed with the competent Tax authorities; and
- (b) a possessory right of pledge (*vuistpandrecht*) over the Movable Assets held by any Warehouse Keeper, upon notification of such Warehouse Keeper.

5 Notification

Initial notification

- 5.1 The Pledgor shall on the date of this Deed notify each Warehouse Keeper existing on the date of this Deed, by sending it a Notification with a copy to the Pledgee.

Ongoing notification requirement

- 5.2 The Pledgor shall promptly and within five (5) Business Days after any person which has not yet been notified of the Pledge becoming a Warehouse Keeper notify that person of the Pledge by sending it a Notification, with a copy to the Pledgee.

Evidence of notification

5.3 The Pledgor shall:

- (a) use all reasonable endeavours to provide the Pledgee with a copy of each Notification countersigned by the relevant addressee for acknowledgement; and
- (b) in the event that countersignature of a Notification cannot be obtained in accordance with paragraph (a) above, provide evidence satisfactory to the Pledgee of receipt by the addressee of such Notification within five (5) Business Days of the date it was required to be sent and forthwith upon receipt thereof.

Warehouse Keeper Lien Waiver

5.4 If a Warehouse Keeper refuses to countersign a Notification sent to it pursuant to this Deed the Pledgor shall use all commercially reasonable endeavours to procure that such Warehouse Keeper otherwise provides an acknowledgement of the Pledge and waiver of any right of pledge, right of retention or other Security or right to suspend obligations it may have in respect of Movable Assets in a form satisfactory to the Pledgee.

Authority to notify

5.5 Without prejudice to any of the obligations of the Pledgor, the Pledgee shall at all times be entitled to, on behalf of the Pledgor and in its name notify any Warehouse Keeper of the Pledge.

6 Registration

Initial registration

6.1 The Pledgor shall submit and offer this Deed for registration to:

- (a) on date of this Deed, the competent Dutch tax authorities; and
 - (b) within twenty-one (21) days after the date of this Deed, UK Companies House,
- complying with all applicable formalities.

Evidence of registration

6.2 The Pledgor shall provide evidence of the proper submission and offering for registration of a copy of this Deed with the competent Dutch tax authorities and the Companies House within five (5) Business Days after the date such submission is required to be made in accordance with clause 6.1 (*Initial registration*) and a scan copy and the original of the registered copy of this Deed

received back from the competent Dutch tax authorities and the Companies House forthwith upon receipt thereof.

Authority to register

- 6.3 Without prejudice to any of the obligations of the Pledgor, the Pledgee shall at all times be entitled to register this Deed with the competent Dutch tax authorities and the Companies House.

7 Use of Movable Assets

Authorisation

- 7.1 Subject to clause 7.2 (*Actions by the Pledgee*) and clause 7.3 (*Automatic termination*) below, the Pledgee hereby authorises the Pledgor to sell, lease, licence, transfer and dispose any Inventory in the ordinary course of its business to the extent permitted under the Facility Agreement.

Actions by the Pledgee

- 7.2 Upon the occurrence of an Event of Default which is continuing the Pledgee may:
- (a) terminate the authorisations referred to in clause 7.1 (*Authorisation*) above with immediate effect by written notice to the Pledgor;
 - (b) notify any Warehouse Keeper of such termination; and/or
 - (c) take immediate possession (and take any steps necessary to obtain permission of a competent court to take immediate possession) of the Movable Assets, either itself or through a third party appointed thereto by the Pledgee or a competent court, and to remove the Movable Assets from any location or premises where these are located and, for that purpose, the Pledgor shall procure that the Pledgee or such third party shall have free and unlimited access to each such location or premises.

Automatic termination

- 7.3 The authorisation referred to in clause 7.1 (*Authorisation*) above will terminate automatically with immediate effect if:
- (a) the unpaid principal amount of all Loans, and all interest accrued and unpaid thereon, or any other Secured Obligations become automatically due and payable pursuant to the occurrence of an Event of Default described in clause 22.6 (*Insolvency proceedings*) of the Facility Agreement; or

- (b) the Agent declares the unpaid principal amount of all Loans, and all interest accrued and unpaid thereon, or any other Secured Obligations, to be immediately due and payable, pursuant to clause 22.19 (*Acceleration*) of the Facility Agreement.

8 Representations and warranties

The Pledgor represents and warrants (*verklaart en staat er voor in*) to the Pledgee that the following statements are true, complete and not misleading (i) on the date of this Deed; (ii) on each date after the date of this Deed on which the Pledgor acquires any part of the Movable Assets and (iii) on each date required pursuant to clause 18.34 (*Times when representations made*) of the Facility Agreement, in each case referring to the facts and circumstances then existing, and any circumstance whereby any of the following statements is not or ceases to be true, complete and not misleading shall be attributable (*toerekenbaar*) to the Pledgor:

Title

- 8.1 The Pledgor is fully legally and beneficially entitled to its Movable Assets and is authorised (*beschikkingsbevoegd*) to create a right of pledge over its Movable Assets as contemplated by this Deed.

Ranking of Pledge

- 8.2 Subject to any Permitted Security, the Pledge constitutes a first ranking right of pledge (*pandrecht, eerste in rang*) in respect of the Movable Assets in accordance with this Deed.

Movable Assets

- 8.3 On the date of this Deed there are no Locations at which Movable Assets are kept or Warehouse Keepers other than the locations and Warehouse Keepers listed in Schedule 1 (*List of Locations*).
- 8.4 Subject to any Permitted Security, the Movable Assets are free of Encumbrances, other than as created pursuant to this Deed.

Information

- 8.5 The Pledgor has provided the Pledgee with:
- (a) all information regarding the Movable Assets as may be relevant for creating a valid and enforceable right of pledge over the Movable Assets;
 - (b) all information as may be relevant for or in connection with the enforcement of the Pledge;
- and

- (c) any other information reasonably requested by the Pledgee in order to perfect, maintain and enforce its Pledge over this Deed.

8.6 All information provided in connection with this Deed or the Movable Assets is true, complete and not misleading in all material respect.

8.7 There are no circumstances known to it which cause it to believe that any representation or warranty in this Deed will cease to be true and non-misleading at any time.

9 Undertakings of the Pledgor

Information

9.1 Without prejudice to the obligations of the Pledgor under any other Finance Document, the Pledgor shall provide the Pledgee (i) on the first following date on which a Borrowing Base Certificate shall be delivered upon written request of the Pledgee not to be submitted more than once per calendar quarter or (ii) promptly after the occurrence of an Event of Default which is continuing with such other frequency as the Pledgee designates, with an up-to-date overview listing:

- (a) the Movable Assets, including the locations thereof and the details of any Warehouse Keeper with which such Movable Assets are stored; and
- (b) the Movable Assets in such other detail as the Pledgee may reasonably request,

the absence of which and/or the failure to list, or include, any of the required information therein shall not affect the validity of the Pledge over the relevant Movable Assets.

9.2 The Pledgor shall immediately upon becoming aware thereof, inform the Pledgee of any event or circumstance which may be relevant to the Pledgee, including but not limited to:

- (a) any representation or warranty made in this Deed ceasing to be true, complete or not misleading;
- (b) a threat (in writing) or actual seizure or attachment (*beslag*) of the Movable Assets or any part thereof; and
- (c) a bankruptcy (*faillissement*), (preliminary) suspension of payments (*(voorlopige) surseance van betaling*) or any other insolvency proceeding listed in Annex A to Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on Insolvency Proceedings (recast) or any equivalent procedure in any other jurisdiction, being filed for in respect of it or otherwise being expected to become applicable to it or any administrator

(*bewindvoerder*), trustee (*curator*) or other insolvency practitioner (*insolventiefunctionaris*) being appointed in respect of it or any of its assets.

Title documents

9.3 The Pledgor shall:

- (a) promptly notify the Pledgee in writing if, the Pledgor acquires any Title Documents relating to Eligible In-Transit Inventory constituting Movable Assets which is included or to be included in the calculation of the UK Borrowing Base; and
- (b) upon the Pledgee's request, shall promptly take all such action as the Pledgee deems appropriate to effect a duly perfected, first ranking Pledge in favour of the Pledgee in respect such Eligible In-Transit Inventory, including obtaining any appropriate possession and/or having such Title Documents endorsed in the name of the Pledgee.

Further assurance

9.4 The Pledgor shall upon the first written request of the Pledgee take any action and do all such things and acts which the Pledgee reasonably considers necessary to establish, maintain, exercise, protect and preserve the Pledge and/or the rights of the Pledgee under this Deed, including, but not limited to:

- (a) executing all such documents, exercising any right, power or discretion exercisable and performing and doing all such acts as the Pledgee may reasonably request for creating, perfecting, protecting and/or enforcing the Security expressed to be created in this Deed, unless prohibited under applicable law;
- (b) informing in writing persons such as a trustee (*curator*) in bankruptcy, an administrator (*bewindvoerder*) in a suspension of payment (*surseance van betaling*) or preliminary suspension of payment (*voorlopige surseance van betaling*) or a person making an attachment (*beslaglegger*), of the existence of the Pledge and the rights of the Pledgee under this Deed; and
- (c) to the extent required in accordance with the Facility Agreement, procuring that any Warehouse Keeper waives any right of pledge, right of retention or other Security or right to suspend obligations it may have in respect of Movable Assets stored with it pursuant to the relevant storage agreement with the Pledgor or otherwise.

9.5 In the event that the Pledgor fails to take any of the measures referred to under clause 9.2 above when due, the Pledgee shall be entitled, where necessary pursuant to the Power of Attorney, to take these measures itself, without prejudice to any of the other rights and remedies of the Pledgee under the Finance Documents or by law.

Negative undertakings

9.6 Other than as permitted under the Facility Agreement or this Deed, the Pledgor may not, without the Pledgee's prior written consent:

- (a) assign, lease, sell, transfer or otherwise dispose of its Movable Assets or make it or permit it to be subject to any Encumbrance, in whole or in part;
- (b) store or hold, directly or indirectly, any Movable Assets at any location other than a location listed in Schedule 1 (*List of Movable Asset Locations*); or
- (c) otherwise do, cause or allow anything which (i) results or may result in a reduction of the value of any Movable Assets or (ii) negatively affects or may affect the enforceability of the Pledge and/or the rights of the Pledgee under this Deed.

Proper care

9.7 The Pledgor shall take proper care of its Movable Assets and keep its Movable Assets properly insured and in good conditions, handle its Movable Assets in a diligent manner and effect any necessary repairs and replacements.

10 Non-competition

10.1 The Pledgor hereby waives (in advance) (*doet (bij voorbaat) afstand van*) and, to the extent such waiver is not effective under applicable law, undertakes not to exercise, any rights which it may have by reason of (i) enforcement by the Pledgee of the Pledge or any other right to which it is entitled pursuant to or in connection with this Deed or by law; or (ii) performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by, exercise any right of recourse (*regres*) against or claim contribution from any other Obligor or any other guarantor of any Secured Obligations;
- (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (c) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Pledgor has given a guarantee, undertaking or indemnity or granted Security;
- (d) to exercise any right of set-off against any Obligor; and/or

- (e) to claim or vote as a creditor of any Obligor or its estate in competition with any Secured Party,

until the Secured Obligations have been irrevocably paid in full (other than by enforcement of any Security created under a Finance Document) and unless the Pledgee otherwise directs.

- 10.2 If the Pledgor receives any benefit, payment or distribution in relation to such rights it shall promptly pay an amount equal to or transfer to the Pledgee that benefit, payment or distribution to the extent necessary to enable the Secured Obligations to be paid in full or as the Pledgee may direct for application in accordance with the Facility Agreement.

11 Enforcement

Enforcement

- 11.1 Upon the occurrence of an Event of Default which is continuing and provided that there is a default (*verzuim*) in the performance of the Secured Obligations:
 - (a) the Pledgee shall be entitled to enforce (*uitwinnen*) the Pledge and exercise all remedies available under Dutch law to a holder of a right of pledge over the Movable Assets in its sole discretion and exercise all these rights without giving any notice to the Pledgor, any other Obligor or any person having an Encumbrance on the Movable Assets or any part thereof (within the meaning of sections 3:249 and 3:252 of the Dutch Civil Code or otherwise); and
 - (b) the Pledgee shall be exclusively entitled, where necessary as attorney pursuant to the Power of Attorney, to pay and discharge on behalf of the Pledgor any liabilities or obligations owing to any person from which the Pledgor has acquired any movable assets subject to a retention of title arrangement in order to release such retention of title arrangement with a view to enforcement of the Pledge over the relevant Movable Assets.
- 11.2 Only the Pledgee shall be entitled to request the competent injunction court (*voorzieningenrechter*) to allow an alternative method of sale of the Movable Assets, within the meaning of section 3:251 of the Dutch Civil Code.

Waiver of rights by the Pledgor

- 11.3 To the extent permitted under Dutch law, the Pledgor hereby irrevocably and unconditionally waives (*doet afstand*), for the benefit of the Pledgee, whether or not in advance:
 - (a) any right it may have of first requiring the Pledgee to proceed against or claim payment from any other Obligor or any other person or enforce any other rights including guarantees or Security before claiming from the Pledgor or enforcing the Pledge, including but not

limited to any rights or defences the Pledgor may have pursuant to section 3:234 of the Dutch Civil Code; and

- (b) in as far as applicable and whether or not the Pledgor or other Obligor disputes the Secured Obligations, any right that the Pledgor may have to:
 - (i) claim reimbursement from the Pledgee for costs incurred by it for the benefit of the Movable Assets other than for maintenance thereof pursuant to section 3:233 of the Dutch Civil Code or otherwise;
 - (ii) suspend or set-off its obligations under this Deed or any other Finance Document pursuant to section 6:52, 6:127 or 6:139 of the Dutch Civil Code or otherwise; or
 - (iii) have any claim of the Pledgee or another Secured Party pass to it by way of subrogation pursuant to section 6:150 sub (a) up and to including (c) of the Dutch Civil Code pursuant to any agreement or in the event that:
 - (A) any part of the Movable Assets is collected or sold pursuant to enforcement of the Pledge;
 - (B) the Pledgor discharges any Secured Obligation by reason of the Movable Assets securing it; or
 - (C) the Pledgor discharges any claim in order to prevent foreclosure of an asset of another person.

Application of proceeds

- 11.4 The proceeds of enforcement shall be applied in discharge of the Secured Obligations in a manner and order to be determined by the Pledgee in accordance with the relevant provisions of the Facility Agreement and the Intercreditor Agreement. If the Pledgee receives a payment in a currency other than that of the Secured Obligations, it may convert the payment into an amount in the currency of the Secured Obligations and the Pledgor shall indemnify and hold harmless the Pledgee for any costs and fees incurred in respect of that conversion.

12 Power of Attorney

- 12.1 The Pledgor hereby grants an unconditional power of attorney, with the right of substitution (*recht van substitutie*), to the Pledgee to represent it in respect of:
 - (a) the performance of any of its obligations pursuant to this Deed in the event of any failure by the Pledgor to perform any of its obligations under this Deed when due; and

(b) upon the occurrence of an Event of Default which is continuing any acts which the Pledgee in its sole discretion deems necessary to protect or enforce its rights under this Deed.

- 12.2 The Power of Attorney is for the benefit of the Pledgee and the Secured Parties and is irrevocable.
- 12.3 In exercising its powers under the Power of Attorney, the Pledgee may at all times act as a counterparty to the Pledgor (*Selbsteintritt*) or as a representative of a counterparty.
- 12.4 The Pledgor shall upon the first request of the Pledgee unconditionally and fully ratify and confirm any acts of the Pledgee or any substitute performed under and within the scope of the Power of Attorney.
- 12.5 Third parties may rely on the Power of Attorney and no third party shall be held liable by the Pledgor for any act or omission done by it in reliance on the Power of Attorney.
- 12.6 The Pledgor shall indemnify and hold harmless the Pledgee and any substitute from any liability, claim, cost or expense suffered or incurred as a result of any action taken by them in good faith pursuant to and within the limits of the Power of Attorney.

13 Costs

The Pledgor shall on demand pay to the Pledgee in accordance with clause 16 (*Costs and Expenses*) of the Facility Agreement an amount equal to all costs and expenses (including legal fees and VAT) incurred or to be incurred by any Secured Party in connection with the negotiation, preparation, printing or execution of this Deed, in responding to, evaluating, negotiating or complying with any request from an Obligor for an amendment, waiver or consent of or in connection with this Deed, the enforcement or preservation of the rights of the Pledgee under this Deed, any proceedings instituted by or against the Pledgee in connection with this Deed or the enforcement of the Pledge.

14 No liability

Neither the Pledgee nor any of its officers, employees or agents shall be liable for loss or liability of any kind arising from any act or omission by it of any kind or any damage suffered or costs incurred by the Pledgor as a result of, and shall not in any other way be liable for, exercising (or not exercising or failing to exercise) any of its powers, rights and remedies under this Deed (including any shortfall in the proceeds of the collection or sale of the Movable Assets), except to the extent such damage or costs are the direct result of the Pledgee's own wilful misconduct (*opzet*) or gross negligence (*bewuste roekeloosheid*).

15 Indemnity

The Pledgor shall on demand indemnify and hold harmless the Pledgee and its officers, employees and agents from any liability, claim, cost or expense suffered or incurred as a result of any action taken or not taken in the exercise of its rights and powers under or in connection with this Deed.

16 Miscellaneous

Conclusive records

- 16.1 The existence and amount of the Secured Obligations shall be conclusively determined by reference to the accounts, books and records of the Secured Parties, which shall constitute conclusive evidence (*dwingend bewijs*) and be binding on the Pledgor, subject to counterproof.

Amendments in writing

- 16.2 Amendments or supplements to this Deed may only be made in writing.

No obligation to make enquiries

- 16.3 The Pledgee is not required to make any enquiry as to the nature or sufficiency of any payment received by it pursuant to this Deed or to make any claim or take any action or otherwise enforce any rights to collect any moneys receivable by the Pledgee in the exercise of any rights or powers conferred upon it by this Deed or to enforce any rights or benefits which the Pledgee may at any time be entitled to under this Deed.

Cumulative remedies

- 16.4 The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law and all rights, remedies and powers vested in the Pledgee under this Deed are in addition to and not a limitation of and are not in any way prejudiced or affected by, and do not prejudice or affect, any other right, power or remedy vested in the Pledgee under the Facility Agreement or any other document, under any (other) present or future Security or by law and all the powers so vested in the Pledgee may be exercised from time to time and as often as the Pledgee may deem expedient.

Discretion to enforce rights

- 16.5 The Pledgee is entitled to exercise its rights under this Deed in such manner, at such times and for such reasons as it may determine in its absolute sole discretion and has no obligation to provide reasons prior to being entitled to exercise such rights.

Safeguarding interests

- 16.6 The Pledgee is at all times entitled, where necessary pursuant to the Power of Attorney, to take any measures it deems necessary or desirable to protect or enforce the Pledge and its other rights under this Deed.

Waiver of defences

- 16.7 The obligations of the Pledgor under this Deed will not be affected by an act, omission, matter or thing which, but for this Deed, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or the Pledgee) including but not limited to:
- (a) any time, waiver or consent granted to, or composition with, the Pledgor, any other Obligor or other person;
 - (b) the release of the Pledgor, any other Obligor or other person under the terms of any composition or arrangement with any creditor of the Pledgor, any other Obligor or other person;
 - (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 Pledgor, any other Obligor or 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 Pledgor, any other Obligor 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 amendment of the Facility Agreement or the addition of any new obligations under the Facility Agreement or any other document or Security;
 - (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or Security; or
 - (g) any insolvency or similar proceedings.

Transfer or assignment

- 16.8 The Pledgor cannot assign or transfer any of its rights or obligations under this Deed without the prior written consent of the Pledgee.

- 16.9 The Pledgee is entitled to assign or transfer its rights and/or obligations under this Deed to a successor Security Agent in accordance with the terms and provisions of the Facility Agreement to the extent that these rights and obligations do not pass by operation of law. The Pledgor agrees in advance to, and cooperates in advance (*medewerking bij voorbaat*) with, any such transfer of rights and obligations under this Deed by way of transfer of contract (*contractsoverneming*).
- 16.10 Subject to the terms of the Facility Agreement, the Pledgor hereby authorises the Pledgee to impart any information concerning it and/or the Movable Assets to any (proposed) successors, assignees and/or transferees.

No avoidance or rescission

- 16.11 The Pledgor waives to the fullest extent permitted by law any and all rights it may have or acquire to avoid (*vernietigen*) or rescind (*ontbinden*) this Deed or the legal acts (*rechtshandelingen*) represented by this Deed, in whole or in part.

Termination or waiver

- 16.12 Upon the full and final discharge of the Secured Obligations, the Pledgee shall at the Pledgor's request and expense certify in writing that this Deed is terminated and that the Movable Assets is released from the Pledge.
- 16.13 The Pledgee may at any time terminate (*opzeggen*) or waive (*afstand doen*) the Pledge in whole or in part by giving written notification thereof to the Pledgor, which termination or waiver the Pledgor hereby accepts in advance.

Reinstatement

- 16.14 If any discharge, release or arrangement (whether in respect of the Secured Obligations or any Security or otherwise) is made by the Pledgee in whole or in part on the basis of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the Pledge and the liability of the Pledgor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

Partial invalidity

- 16.15 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.

Counterparts

- 16.16 This Deed may be executed in any number of counterparts, all of which taken together shall constitute one and the same deed.

Effectiveness

- 16.17 This Deed will become effective against the Pledgor once it is executed by it, irrespective of whether it has already been executed by the Pledgee or the Pledgor.

17 Governing Law and Jurisdiction

Governing law

- 17.1 This Deed (including this clause 17) and any non-contractual obligations arising in connection with this Deed shall be governed by Dutch law.
- 17.2 If a party to this Deed is represented on the basis of a power of attorney in connection with the execution of this Deed or any agreement or document pursuant to this Deed and the relevant power of attorney is expressed to be governed by Dutch law, such choice of law is hereby accepted by each other party, in accordance with section 14 of the The Hague Convention on the Law Applicable to Agency of 14 March 1978.

Jurisdiction

- 17.3 The courts competent in Amsterdam, the Netherlands shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding this clause 17, the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with this Deed) (a **Dispute**).
- 17.4 The parties to this Deed agree that the court of Amsterdam, the Netherlands is the most appropriate and convenient court to settle Disputes and accordingly no party to this Deed will argue the contrary.
- 17.5 Clauses 17.3 and 17.4 are for the benefit of the Pledgee only. As a result, the Pledgee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Pledgee may take concurrent proceedings in any number of jurisdictions.

Election of domicile

- 17.6 The Pledgor hereby elects its domicile (*woonplaats*) for the purpose of the performance (*tenuitvoerlegging*) of this Deed to be at the registered office address in the Netherlands of Clarks

Management B.V. from time to time which on the date of this Deed is at Schoutenstraat 38, the Netherlands.

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

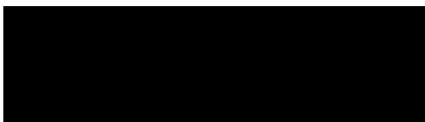
(signature page follows)

SIGNATURE PAGE

SIGNED for and on behalf of

The Pledgor

C. & J. CLARK INTERNATIONAL LIMITED



By: PAUL A WAICGTED

Title: DIRECTOR and COMPANY SECRETARY

The Pledgee

BANK OF AMERICA, N.A.

By:

Title:

SIGNATURE PAGE

SIGNED for and on behalf of

The Pledgor

C. & J. CLARK INTERNATIONAL LIMITED

By:

Title:

The Pledgee

BANK OF AMERICA, N.A.



By: *Daniel K. Clancy*
Title: *Senior Vice President*

Schedule 1
List of Locations

Proprietor / Warehouse Keeper	Location
Bleckmann Solutions B.V.	Piri Reisweg 15-17 5928 LB Venlo The Netherlands

Schedule 2
Form of Warehouse Notification

To: [Warehouse Keeper]
[address]

From: [Pledgor] (the **Pledgor**)
[address]

Copy to: Bank of America, N.A. (the **Pledgee**)
[address]

[date]

Dear Sirs,

Kindly be advised that on or about [●] a right of pledge was created by means of a deed of pledge (the **Pledge**) in favour of the Pledgee over any present and future movable assets of [the Pledgor] and any movable assets in respect of which the Pledgor has or acquires a conditional interest (*voorwaardelijk recht*) pursuant to an acquisition of such movable asset subject to a retention of title arrangement (*eigendomsvoorbehoud*) or, as applicable, any such conditional interest itself, to the extent capable of being pledged under Dutch and which are or become located at your premises at [address] the Netherlands at any time (the **Movable Assets**).

The Pledgor and the Pledgee have agreed that the Movable Assets held by you shall be held by you as designated third party in your control for the benefit of the Pledgee as pledgee of such Movable Assets.

By signing this letter for acknowledgement of receipt you confirm that the Movable Assets held by you pursuant to the warehouse agreement to store or warehouse the Movable Assets for the Pledgor, whether now or in the future is held by you as agent for and on behalf of the Pledgee.

The Pledgor remains entitled to sell and transfer any Movable Assets which are held for sale in the ordinary course of business of the Pledgor until the Pledgee notifies you otherwise in writing.

Please sign and return the enclosed copy of this letter as evidence of your receipt of, and agreement with, the information contained in it.

Yours faithfully,

For and on behalf of

[Pledgor]

By:
Title:

We, the undersigned, hereby acknowledge receipt of the Warehouse Notice and agree to be bound by its terms.

For and on behalf of

[Warehouse Keeper]

By:

Title: