



Registration of a Charge

Company Name: **BENCHMARK HOLDINGS PLC**

Company Number: **04115910**



XBXX5V83

Received for filing in Electronic Format on the: **22/02/2023**

Details of Charge

Date of creation: **16/02/2023**

Charge code: **0411 5910 0013**

Persons entitled: **DNB BANK ASA, LONDON BRANCH (ACTING IN ITS CAPACITY AS SECURITY AGENT)**

Brief description: **N/A**

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: **MATTHEW MAGUIRE**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4115910

Charge code: 0411 5910 0013

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th February 2023 and created by BENCHMARK HOLDINGS PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd February 2023 .

Given at Companies House, Cardiff on 24th February 2023

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**

AGREEMENT AND DEED OF PLEDGE OF SHARES
BENCHMARK HOLDING EUROPE B.V.

Today, the sixteenth of February two thousand and twenty-three, appear before me, Jan Bouwen de Snaijer, civil law notary practising in Amsterdam (the "**Notary**"):

- (1) Annemarieke Janssen, with office address Strawinskylaan 4129, 1077 ZX Amsterdam, [REDACTED]
[REDACTED] acting as attorney-in-fact of **Benchmark Holdings plc**, a company incorporated under the laws of England and Wales, with its registered office and office address at Highdown House, Yeoman Way, Worthing, West Sussex, United Kingdom, BN99 3HH, registered under number 04115910 (the "**Pledgor**"), and as such representing the Pledgor;
- (2) Miraisa Soraya Dundas, with office address Strawinskylaan 4129, 1077 ZX Amsterdam, [REDACTED]
[REDACTED], acting as attorney-in-fact of **Benchmark Holding Europe B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands, having its corporate seat (*statutaire zetel*) in Amsterdam, The Netherlands, and its office address at Verlengde Poolseweg 16, 4818 CL Breda, The Netherlands, registered with the Trade Register of the Dutch Chamber of Commerce (*Kamer van Koophandel*) under number 53698673 (the "**Company**"), and as such representing the Company; and
- (3) Jikke de Witte, with office address Strawinskylaan 4129, 1077 ZX Amsterdam, [REDACTED]
[REDACTED], acting as attorney-in-fact of **DNB Bank ASA, London Branch**, a company incorporated under the laws of Norway, acting through its London branch with UK establishment having its registered address at 8th Floor The Walbrook Building 25 Walbrook, London, EC4N 8AF, United Kingdom, registered with Companies House with company registration number FC025119 (in this matter acting in its capacity as security agent (in such capacity the "**Pledgee**")), and as such representing the Pledgee.

THE APPEARERS, ACTING IN THEIR AFOREMENTIONED CAPACITIES, DECLARE:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this agreement and deed of pledge of shares (the "**Deed**") terms defined in the Facilities Agreement (as defined below) and not redefined in this Deed shall have the meaning set out therein and, in addition, unless the context requires otherwise, the following words shall have the following meaning:

"Ancillary Rights" all ancillary rights (*nevenrechten*), dependent rights (*afhankelijke rechten*) and limited rights (*beperkte rechten*) vested in the Pledgor from time to time in respect of one or more of the Pledged Assets.

"Articles of Association" the articles of association (*statuten*) of the Company as they currently read since their latest amendment on the fifth of July two thousand and nineteen (5 July 2019) and as amended from time to time.

"Beneficiary" each Finance Party, and **"Beneficiaries"** includes any two or more of them.

"DCC" Dutch Civil Code (*Burgerlijk Wetboek*).

"Enforcement Event" the occurrence of an Event of Default which is continuing and in relation to which a notice under paragraph (a) of clause 24.9 of the Facilities Agreement has been issued, provided there is also a default (*verzuim*) in or in connection with the proper performance of the Secured Obligations.

"Facilities Agreement" the Revolving Facilities Agreement dated the twenty-first of November two thousand and twenty-two (21 November 2022) and made between, *inter alios*, Benchmark Holdings plc as Company, the Original Guarantors (as defined

| | |
|-------------------------|---|
| | therein) and DNB Bank ASA, London Branch as Agent. |
| "Future Shares" | any shares in the capital of the Company acquired by or issued to any person after the execution of this Deed, regardless of whether the resolution to issue these shares was adopted prior to the execution of this Deed. |
| "Parallel Debt" | has the meaning given to it by clause 2.2, provided that the same constitutes monetary obligations (<i>vorderingen tot voldoening van een geldsom</i>). |
| "Party" | each of the Company, the Pledgor and the Pledgee. |
| "Pledged Assets" | each (part) of the Present Shares, the Future Shares, the Related Assets and all other assets, rights, receivables, claims and other property of whatever kind and nature of the Pledgor in which the Pledgee from time to time acquires a security interest under or pursuant to this Deed or, if the context permits, in which the Pledgee is entitled to acquire or should have acquired such security interest. |
| "Present Shares" | all issued registered shares (<i>aandelen op naam</i>) in the share capital of the Company, and registered in the name of the Pledgor, being two thousand one hundred (2,100) shares, numbered 1 up to and including 2,100, with a nominal value of one United States dollar (USD 1) each. |
| "Principal Obligations" | all present and future liabilities and |

obligations at any time due, owing or incurred by any member of the Group and by each Obligor to any Finance Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"Proceedings"

has the meaning given thereto in clause 22.2.

"Related Assets"

(i) all dividends and distributions for the time being in respect of the Shares; (ii) all other rights, monies and other assets accruing, distributed, issued or offered at any time in respect of (a) the Shares or (b) the dividends and distributions referred to in (i) above (whether in kind (*natura*) or in cash (*contanten*), by way of redemption (*kapitaalvermindering of afstempeling*), repurchase (*inkoop*), dividend, bonus, agio, premium, preference, pre-emption, conversion, capitalisation of profits or reserves, substitution, exchange, option right or otherwise); and (iii) all proceeds of any and all of the foregoing including all '*burgerlijke vruchten*' and other proceeds that constitute assets of the types described above, all of the foregoing whether already declared (*betaalbaar gesteld*) or not, established (*vastgesteld*) or not, approved (*goedgekeurd*) or not or issued (*uitgegeven*) or not.

"Secured Obligations"

(i) all Principal Obligations due to the Pledgee and (ii) the Parallel Debt.

| | |
|------------------------|---|
| "Shares" | the Present Shares and the Future Shares. |
| "Voting Event" | the occurrence of an Enforcement Event, which has been notified by the Pledgee to each of the Pledgor and the Company for the purposes of this Deed with reference to clause 7. |
| "Voting Rights" | the voting and other consensual rights and similar rights or powers attaching to the Shares, the Related Assets, or any part thereof, including rights to give consent and to approve (<i>instemmingsrechten en goedkeuringsrechten</i>). |

1.2 In this Deed, unless the context otherwise requires:

- (a) references to a "person" include any person, individual, firm, company, corporation, government, state or agency of a state or any association, joint venture association, organisation, institution, trust or partnership (in each case, whether or not having separate legal personality) or any two or more of the foregoing;
- (b) the expressions "variation" and "varied" shall include any variation, supplement, extension, deletion or replacement, however effected;
- (c) any headings or sub-headings are inserted for convenience only and shall be ignored in construing this Deed;
- (d) references to clauses, sub-clauses, paragraphs and Schedules are, subject to an indication to the contrary, to be construed as references to clauses, sub-clauses, paragraphs of, and Schedules to, this Deed;
- (e) references in this Deed to this Deed or any other document include references to this Deed or such other document as varied, novated, re-enacted, supplemented, restated and/or replaced in any manner from time to time and/or any document which varies, novates, re-enacts, supplements, restates and/or replaces it, and as facilities and financial services are or may from time to time be granted, extended, prolonged, increased, reduced, exchanged, accelerated, cancelled, withdrawn,

amended, restated, supplemented, renewed or novated, in each case in however fundamental a manner;

- (f) references to monies, obligations, liabilities, facilities and financial services include references to the same as granted, extended, prolonged, increased, reduced, exchanged, accelerated, cancelled, withdrawn, amended, restated, supplemented, renewed or novated, in each case in however fundamental a manner;
- (g) references to Pledged Assets and title and interest thereto and therein shall expressly include and be construed as a share (*aandeel*) therein by way of share in a joint estate (*gemeenschap*) if the Pledgor is not the sole person entitled thereto;
- (h) references to "including" shall not be construed restrictively but shall be construed as meaning "including, without limitation or prejudice to the generality of the foregoing"; and
- (i) references to "writing" include facsimile transmission and any other mode of representing or reproducing words in a legible and non-transitory form, and "written" has a corresponding meaning.

1.3 Any failure to satisfy a Secured Obligation when it falls due shall constitute a default in the performance thereof without any further reminder letter (*sommatie*) or default notice (*ingebrekestelling*) being required under and pursuant to this Deed.

1.4 This Deed is a Transaction Security Document.

2. UNDERTAKING TO PLEDGE. THE PLEDGEE

Undertaking to pledge

2.1 The Pledgor hereby agrees with the Pledgee to grant the security interests envisaged to be granted under and pursuant to this Deed. Notwithstanding the governing law of the Facilities Agreement, the Pledgor and the Pledgee hereby agree that the obligation to pledge will be governed by and interpreted in accordance with Dutch law.

Parallel Debt

2.2 Without prejudice to the provisions of the Finance Documents (other than this Deed) and for the purpose of ensuring and preserving the validity and continuity of the security rights granted or to be granted by the Pledgor under and pursuant to this Deed, other Transaction Security Documents and other

documents purporting to, directly or indirectly, create security to secure Secured Obligations, the Pledgor hereby irrevocably and unconditionally undertakes that it will pay to the Pledgee amounts equal to, and in the currency of the Principal Obligations, as and when they fall due for payment (such amounts and related liabilities, together the "**Parallel Debt**").

2.3 In relation to the Parallel Debt, the Pledgor and the Pledgee acknowledge and agree that:

- (a) the Parallel Debt is separate and independent from, and without prejudice to, the corresponding Principal Obligations due, owing or incurred by the Pledgor to any Beneficiary;
- (b) the Pledgee is entitled to claim the Parallel Debt in its own right (*vordering op naam*), provided that the total amount of the Parallel Debt shall never exceed the total amount of the Principal Obligations;
- (c) subject to clause 15.2, discharge of the Secured Obligations (whether in whole or in part), other than by virtue of sub-clause (d) below, shall reduce the Parallel Debt to the same extent; and
- (d) subject to clause 15.2, discharge of the Parallel Debt (whether in whole or in part) shall be treated as direct discharge of the Principal Obligations to the same extent, subject, to the greatest extent permitted by the laws of the Netherlands, to any waterfall or allocation clauses which may apply to amounts received by the Pledgee which have to be applied in redemption of the Principal Obligations.

The Pledgee

2.4 The Parties acknowledge that, in connection with the creation of the rights of pledge hereunder and pursuant hereto, the Pledgee also acts for the benefit of (*in het belang van*) the other Beneficiaries, but in its own name and not as representative (*vertegenwoordiger*) of the Beneficiaries or any of them and consequently the Pledgee becomes the sole pledgee hereunder and pursuant hereto.

2.5 Without prejudice to clause 2.2, the Parties confirm that the provisions of the Facilities Agreement applicable to the security agent apply to the Pledgee as pledgee *mutatis mutandis*.

2.6 Where this is envisaged by any Finance Document, the Parallel Debt and the Pledged Assets will not be held on trust by the Pledgee, if and to the extent the

same would adversely affect the interests of the Beneficiaries.

3. **PLEDGE OF PRESENT SHARES AND RELATED ASSETS. UNDERTAKING TO PLEDGE**

- 3.1 To secure and provide for the payment of all Secured Obligations, the Pledgor hereby pledges (*verpandt*) to the Pledgee by way of a first ranking right of pledge (*pandrecht eerste in rang*), free and clear of all encumbrances (*beperkte rechten*) and attachments (*beslagen*), all Present Shares, which right of pledge is hereby accepted by the Pledgee.
- 3.2 To secure and provide for the payment of all Secured Obligations, the Pledgor hereby pledges, and if and insofar the same cannot yet be pledged on the date of this Deed, hereby pledges in advance (*bij voorbaat*), to the Pledgee by way of a first ranking right of pledge (*pandrecht eerste in rang*), free and clear of all encumbrances (*beperkte rechten*) and attachments (*beslagen*), all Related Assets pertaining to the Present Shares, which right of pledge is hereby accepted by the Pledgee.
- 3.3 To secure and provide for the payment of all Secured Obligations, the Pledgor hereby pledges, and if and insofar the same cannot yet be pledged on the date of this Deed, hereby pledges in advance (*bij voorbaat*), to the Pledgee by way of a first ranking right of pledge (*pandrecht eerste in rang*), free and clear of all encumbrances (*beperkte rechten*) and attachments (*beslagen*), all Future Shares and all Related Assets not already pledged pursuant to any of the previous provisions of this clause 3, which right of pledge is hereby accepted by the Pledgee.
- 3.4 In as far as it is legally possible to create this type of pledge, the rights of pledge (*pandrechten*) created hereunder and pursuant hereto will be created by way of possessory or disclosed pledge (*vuistpandrecht of openbaar pandrecht*), as relevant, and insofar as a possessory or disclosed pledge is not or cannot (yet) be effectively created, the same is created by way of non-possessory or non-disclosed pledge (*bezitloos of stil pandrecht*), whereas the Pledgor undertakes to forthwith hand over each Pledged Asset to the Pledgee which is capable of being encumbered with a possessory right of pledge.
- 3.5 If any of the Shares or Related Assets are changed, classified or reclassified, subdivided, consolidated or converted through a variation of the Articles of Association, a (statutory) merger or demerger or in any other way, the shares or other assets (*goederen*) resulting from such event are hereby pledged and

shall automatically become subject to the pledge (*pandrecht*) hereby created and to the extent required to create such pledge the same are hereby pledged as set out in clauses 3.1, 3.2 and 3.3 and such pledge is hereby accepted by the Pledgee. Nothing in this clause 3.5 should be construed as to imply or contain the consent of the Pledgee to change the Shares or the Related Assets as set out in the first sentence of this clause 3.5.

- 3.6 Where (i) a disclosed right of pledge (*openbaar pandrecht*) or (ii) a possessory right of pledge (*vuistpandrecht*) is envisaged to be created hereunder or pursuant hereto, the Parties agree that (a) pending notification to the relevant party, a non-disclosed right of pledge (*stil pandrecht*), and (b) pending possession or control by the Pledgee, a non-possessory right of pledge (*bezitloos pandrecht*) respectively, will also be created and each covenant, undertaking, obligation and provision hereof will be construed accordingly.
- 3.7 The Pledgee is authorised to register an official copy (*afschrift*) of this Deed with the Dutch *Belastingdienst*.

4. REPRESENTATIONS AND WARRANTIES

The Pledgor hereby represents and warrants to the Pledgee that:

- (a) the Present Shares have been validly issued, are fully paid up (*volgestort*) and constitute one hundred per cent. (100%) of the issued and outstanding share capital of the Company;
- (b) the Pledgor has been a shareholder of the entire issued and outstanding share capital of the Company since the thirtieth of December two thousand and fifteen (30 December 2015), when it acquired the Present Shares, as a result of purchase and sale by private deed dated the eleventh of December two thousand and fifteen (11 December 2015) and the subsequent transfer by notarial deed executed on the thirtieth of December two thousand and fifteen (30 December 2015) before A.J. Wiggers, civil law notary, practising in Amsterdam;
- (c) the Pledgor is and will continue to be authorised to grant a first ranking right of pledge to the Pledgee on the Present Shares, the Related Assets pertaining to the Present Shares and the other Pledged Assets;
- (d) the Pledgor is the full legal and beneficial owner of the Present Shares, the Related Assets pertaining to the Present Shares and the other

- Pledged Assets, and the same are free and clear of any encumbrances (*beperkte rechten*), except for the rights of pledge created by this Deed;
- (e) the Pledgor has not transferred in advance any Pledged Assets (including future Related Assets and Future Shares) nor created in advance or agreed to create, any encumbrances (*beperkte rechten*) on any Pledged Assets;
 - (f) no person or entity has any right or option to purchase, subscribe, encumber or otherwise acquire any Present Shares, Related Assets pertaining to the Present Shares, Future Shares or other Pledged Assets except for the rights of pledge created by this Deed; and
 - (g) no depositary receipts (*certificaten van aandelen*) have been issued with respect to the Present Shares and Related Assets pertaining to the Present Shares or will be issued in respect thereof or in respect of Future Shares or other Pledged Assets.

5. COVENANTS

- 5.1 The Pledgor hereby covenants that it shall provide the Pledgee upon its written request (provided an Event of Default has occurred which is continuing) with statements identifying all Pledged Assets specifying, insofar as reasonably possible, such matters and information as the Pledgee may from time to time request.
- 5.2 The Pledgor covenants that it shall not, without the consent of the Pledgee (unless the same is permitted in the Finance Documents):
- (a) (agree to) part with, sell, assign, transfer, pledge or otherwise dispose of or encumber all or any part of the Pledged Assets or any rights or interests in or to the Pledged Assets;
 - (b) cause the Company to issue any shares or grant any right to subscribe to shares to any person or entity other than the Pledgor;
 - (c) exercise the Voting Rights to the extent the exercise of those rights is reasonably likely to be materially prejudicial to the validity or enforceability of the security created or cause an Event of Default to occur; or
 - (d) resolve to or otherwise cooperate in respect of the issue of depositary receipts (*certificaten van aandelen*) in respect of the Shares (irrespective whether such depositary receipts are with or without the

right to attend the general meeting (*vergaderrecht*)).

5.3 The Company covenants that it shall not, without the consent of the Pledgee (unless the same is permitted in the Finance Documents):

- (a) issue Future Shares (and if any issuance is permitted, such shares must be validly issued and fully paid up (*volgestort*) when issued);
- (b) cooperate with the transfer of Shares; or
- (c) cooperate with the issue of depositary receipts (*certificaten van aandelen*) in respect of the Shares (irrespective whether such depositary receipts are with or without the right to attend the general meeting (*vergaderrecht*)).

5.4 In the event of a threatened or an actual attachment or seizure by a third party of Pledged Assets the Pledgor shall:

- (a) forthwith notify the Pledgee and send it a copy of the relevant attachment or seizure documentation and other documentation, if any, and all other documents required under applicable law for challenging the attachment or seizure; and
- (b) forthwith notify such third party or the court process server acting on behalf of such third party in writing of the Pledgee's interest in the relevant Pledged Assets.

6. FURTHER ASSURANCE

The Pledgor shall, at its own cost and expense, if required by the Pledgee, promptly sign, deliver and complete all documents and do all acts and things which the Pledgee may require:

- (a) at any time, and from time to time, to create, perfect or protect security over any of the Pledged Assets or to facilitate the collection of the Pledged Assets;
- (b) while an Enforcement Event is continuing, to facilitate the sale or other disposal of any of the Pledged Assets; and
- (c) in relation to the exercise of all powers, authorities and discretions vested in the Pledgee in respect of any of the Pledged Assets,

and furthermore the Company shall, at its own cost and expense, facilitate all of the foregoing.

7. PERFECTION, DIVIDENDS AND VOTING RIGHTS

7.1 The Company:

- (a) acknowledges from time to time the first ranking rights of pledge (*pandrechten eerste in rang*) over (i) the Shares, (ii) all cash dividends paid or payable at any time after the execution of this Deed relating to all or any of the Present Shares, (iii) the Future Shares and (iv) the other Related Assets (where applicable) and undertakes to forthwith register such rights of pledge and the conditional transfer of the Voting Rights in its shareholders' register;
 - (b) undertakes to forthwith further acknowledge and register in its shareholders' register the first ranking right of pledge of Future Shares (if any) and to further acknowledge and register in its shareholders' register the first ranking rights of pledge of all other Related Assets;
 - (c) undertakes to provide the Pledgee, within a reasonable time after the execution of this Deed, with a copy of the relevant entries in its shareholders' register; and
 - (d) to the extent permitted under the laws of The Netherlands and with the knowledge of the Pledgor, hereby irrevocably waives any pre-emption right, right of first refusal and other right in respect of the Pledged Assets (as relevant) granted under the Articles of Association or otherwise (where applicable) of the Company that may impede the exercise by the Pledgee of the rights of pledge and the other rights conferred under this Deed, which waiver is hereby accepted by the Pledgee.
- 7.2 The Pledgor hereby irrevocably waives, renounces and agrees not to exercise, to the extent permitted under the laws of The Netherlands, any of its pre-emption rights, rights of first refusal and other rights in respect of the Pledged Assets (as relevant), to which it is or may become entitled in relation to the Pledged Assets, which waiver is hereby accepted by the Pledgee.
- 7.3 Subject to the terms of the Finance Documents, the Pledgee gives its revocable consent to the Pledgor to receive, retain and utilise cash dividends distributed by the Company, which consent may be revoked if an Enforcement Event has occurred.
- 7.4 The Pledgor hereby transfers its Voting Rights to the Pledgee under the condition precedent (*opschortende voorwaarde*) that a Voting Event occurs.
- 7.5 Until the occurrence of a Voting Event, the Pledgor may exercise any and all

such Voting Rights to which it is entitled, save:

- (a) that no such exercise may violate or be inconsistent with the express terms or purpose of this Deed and/or the other Finance Documents; and
- (b) that no such exercise may cause an Event of Default to occur or in case such exercise is reasonably likely to be materially prejudicial to the validity of the security created.

7.6 Upon the occurrence of a Voting Event, any rights of the Pledgor to exercise the Voting Rights which it is entitled to exercise pursuant to clause 7.5 above shall cease and the Pledgee shall have the sole and exclusive right and authority to exercise the Voting Rights and shall be entitled to exercise or refrain from exercising the Voting Rights in such manner as the Pledgee may in its absolute discretion deem fit.

7.7 The Company confirms and the other Parties agree that a written notice from the Pledgee to the Company stating that a Voting Event has occurred shall be sufficient for the Company to accept the Pledgee as being exclusively entitled to the Voting Rights and other powers which it is entitled to exercise upon the occurrence of such an event.

7.8 Until the transfer of Voting Rights to the Pledgee, the Pledgee shall not have the rights which the law attributes to holders of depositary receipts (*certificaten van aandelen*) with meeting rights (*vergaderrecht*) of shares in the capital of the Company.

8. ENFORCEMENT

8.1 Upon the occurrence of an Enforcement Event the Pledgee shall be entitled to collect, sell or dispose of all Pledged Assets forthwith in accordance with applicable law.

8.2 The Pledgor shall not be entitled to request the court that any of the Pledged Assets be sold or disposed of in a manner deviating from the provisions of section 3:250 DCC.

8.3 In the event that the Pledgee sells or wishes to sell any of the Pledged Assets or wishes to dispose of or disposes of any of the Pledged Assets it will not be obliged to give notice thereof to the Pledgor or any person having the benefit of an encumbrance on any Pledged Assets (all as envisaged by sections 3:249 and 252 DCC).

- 8.4 The Pledgee may, at any time after the security hereby constituted has become enforceable, redeem any prior encumbrance over any Pledged Asset or procure to be subrogated in such prior encumbrance. All principal monies, interest, costs, charges and expenses of, and incidental to, such redemption and subrogation shall be paid by the Pledgor to the Pledgee on demand.
- 8.5 To the greatest extent permitted by the laws of The Netherlands, the Pledgee shall not be liable for:
- (a) any loss or damage arising out of a sale or other disposal of any of the Pledged Assets or the exercise of, or failure to exercise, any of the Pledgee's powers or rights under this Deed, however caused and whether or not a better price could or might have been obtained by deferring or advancing the date of such sale or other disposal, or deferring collection of sale or disposal proceeds or by applying or exercising a different method of sale, disposal or collection; or
 - (b) any neglect or default to accept any offer or to notify the Pledgor of any matter or for any other loss or damage of any nature whatsoever in connection with any of the Pledged Assets,
- unless such loss or damage is caused by the gross negligence or wilful misconduct of the Pledgee.
- 8.6 The Pledgee is hereby irrevocably authorised (without obligation) by the Pledgor in the event of a sale:
- (a) to offer, where applicable, the Shares and the Related Assets for sale in the manner prescribed by the Articles of Association and, where applicable, to seek the approval of the corporate body designated under the Articles of Association as empowered to approve any transfer of shares, as the case may be, and to exercise the Pledgor's rights in connection with the sale and transfer of the Shares as provided in section 2:198, paragraph 6, DCC;
 - (b) to cause notice of the sale of the Shares and, where applicable, the Related Assets to be served, also on behalf the Pledgor, upon the Company in accordance with the laws of The Netherlands and the Articles of Association; and
 - (c) to cause any of the Shares and, where applicable, the Related Assets to be registered in the name of the new owner(s) following the sale and

to do all acts and sign all documents as are necessary for that purpose pursuant to the laws of The Netherlands and the Articles of Association.

- 8.7 The Pledgee shall have the right to impose such limitations and restrictions on the sale of the Shares and, where applicable, the Related Assets as the Pledgee may deem necessary or appropriate to comply with any law, rule or regulation applicable to the sale. The Pledgor shall cooperate with the Pledgee in obtaining any necessary permits, exemptions or consents of competent authorities and in ensuring that the sale of the Shares and, where applicable, the other Pledged Assets does not violate any applicable securities laws.

9. **POWER OF ATTORNEY**

- 9.1 The Pledgor, for the benefit of the Pledgee (*in het belang van de Pandhouder*), hereby irrevocably appoints the Pledgee (with full power to appoint substitutes and to delegate) to be its attorney (*gevolmachtigde*), on its behalf and in its name, as its act and deed or otherwise, at any time upon the occurrence of an Event of Default which is continuing to execute, deliver and otherwise perfect any agreement (including any agreement to which the Pledgee (or any substitute or delegate) itself is party (*Selbsteintritt*)), assurance, instrument or document, or perform any act, which may be required of the Pledgor under this Deed or otherwise may be deemed by such attorney necessary or desirable for any purpose of this Deed or to perfect the security intended to be constituted by it or pursuant to it or (after or in connection with enforcement) to transfer legal ownership of any Pledged Asset. This power of attorney is granted with the authorities mentioned in section 3:62, paragraph 2, DCC, first sentence. The Pledgor hereby agrees to ratify and confirm all acts and things done by the Pledgee (or any substitute or delegate) in the exercise or purported exercise of the powers conferred by this clause and also agrees that it shall have no claim against the Pledgee (or any substitute or delegate) in respect of any action taken or omitted to be taken under this power of attorney (save in the event of gross negligence or wilful misconduct), nor shall any such action or omission adversely affect any of the Secured Obligations or Principal Obligations. This irrevocable power of attorney shall, to the greatest extent permitted by the laws of The Netherlands, survive any and all circumstances affecting the Pledgor, including its insolvency and dissolution.
- 9.2 If a Party is represented by an attorney in connection with signing, execution

and/or delivery of this Deed or any agreement or document referred to in, or made pursuant to, this Deed and such power of attorney is expressed to be governed by the laws of The Netherlands, such choice of law is hereby expressly acknowledged and accepted by the other Parties as the law governing:

- (a) the internal relationship between the principal and the attorney;
- (b) the (external) authority of the attorney and the (external) consequences of the exercise of a power attorney; and
- (c) any other issues in connection with the (power of) attorney.

10. APPLICATION OF MONIES

The net monetary proceeds received by the Pledgee under the powers conferred by or pursuant to this Deed shall, subject to the payment of any claims having priority by law, be paid or applied in full in or towards satisfaction of the Secured Obligations in accordance with the Facilities Agreement.

11. COSTS AND EXPENSES

Clause 18 (*Costs and Expenses*) of the Facilities Agreement shall apply to this Deed *mutatis mutandis*, whereby "Borrower" should be read as "Pledgor" and "Agent" as "Pledgee".

12. INTEREST SECURED

The rights of pledge created hereunder and pursuant hereto shall expressly also serve as security for Secured Obligations which represent interest accrued over or compounded in respect of any period in excess of three (3) years.

13. SET-OFF

Upon the occurrence of an Event of Default, the Pledgee may, at any time or times and without notice to the Pledgor, set off (*verrekenen*) (i) any or all sums of money now or subsequently standing to the Pledgor's credit upon any account with the Pledgee (whether or not then due or payable and whether contingent or not) against (ii) all or such part of the Secured Obligations (whether presently payable or not and whether contingent or not) as the Pledgee may determine, irrespective of the currency in which any of the foregoing is denominated, and the Pledgee may purchase with any such money any other currency required to effect such set-off.

14. TRANSFER

14.1 The Pledgor may not assign or transfer any of its rights or obligations under this

Deed.

- 14.2 The Pledgee may assign or transfer all or any of its rights and/or obligations under this Deed or otherwise grant an interest in them in any manner contemplated by any Finance Document.

15. CONTINUING AND INDEPENDENT SECURITY

- 15.1 This Deed shall be a continuing security notwithstanding any intermediate payment or settlement of accounts or other matters whatsoever and shall remain in force unless and until the full and valid discharge of the Secured Obligations has occurred.

- 15.2 Any discharge referred to in clause 15.1 and any composition or arrangement which the Pledgor may effect with the Pledgee shall be deemed to be made subject to the express condition that it will be void if any payment or security which the Pledgee may have received or may receive from any person in respect of the Secured Obligations is avoided, invalidated or set aside or if any order is made in respect thereof under any enactment relating to insolvency.

- 15.3 To the greatest extent permitted by the laws of The Netherlands, the security created hereby or pursuant hereto shall not be prejudiced, affected or diminished by any act (except for payment in full of the Secured Obligations), omission or circumstance which, but for this provision, might operate to release, discharge or otherwise exonerate the Pledgor from its liability to the Pledgee or otherwise in respect of any of the Secured Obligations or the Principal Obligations, including:

- (a) any extension or postponement of the time of payment or performance, or other indulgence granted to, or any acceptance of partial payment by, or any settlement, composition or adjustment with, the Pledgor or any other person;
- (b) the transfer by the Pledgee or any Beneficiary of all or any of its rights, benefits and/or obligations under the Finance Documents or any other agreement to which it is a party to another person; or
- (c) the bankruptcy, moratorium, insolvency or liquidation or any change in the name or constitution of the Pledgor or any other person.

16. ADDITIONAL AND FUTURE SECURITY

This Deed is in addition to, and shall not affect (or be affected by), any other Transaction Security Document or any guarantees, indemnities, liens, security

or encumbrances whatsoever which the Pledgee may hold now or hereafter for any part of the Secured Obligations or the Principal Obligations and may be enforced without first having recourse to any such guarantee, indemnity, lien, security or encumbrance.

17. TERMINATION OF SECURITY BY NOTICE AND WAIVER

The Pledgee will be entitled to terminate by notice (*opzeggen*) the security interests created hereunder and pursuant hereto in whole or in part in respect of (i) all or part of the Pledged Assets and/or (ii) all or part of the Secured Obligations, as envisaged by section 3:81, paragraph 2, DCC, and if and insofar as the purported effect of any such termination would require a waiver (*afstand*) by the Pledgee such termination shall be construed accordingly and the Pledgor hereby in advance agrees to such waiver.

18. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS

- 18.1 No failure to exercise or perfect, and no delay on the part of the Pledgee in exercising or perfecting, any right, remedy or security under or pursuant to this Deed and no course of dealing between the Parties shall be construed or operate as a waiver of that right, remedy or security, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy. The rights and remedies provided by this Deed are cumulative and are not exclusive of any other rights and remedies provided by law.
- 18.2 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, such provision shall be affected only to the extent of such illegality, invalidity or unenforceability and neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby. The Parties undertake to replace any provision of this Deed so held illegal, invalid or unenforceable with a valid provision which is as similar as possible in substance to the provision to be replaced.
- 18.3 Each of the Company and the Pledgor hereby waives, to the greatest extent permitted by the laws of The Netherlands, any rights it may have to:
- (a) require the Pledgee to invoke, defend, perfect or enforce any security or encumbrance provided by any person other than the Pledgor;

- (b) dissolve (*ontbinden*) or avoid (*vernietigen*) this Deed or the legal acts represented hereby pursuant to section 6:265 DCC or on any other ground; and
- (c) where relevant, require that assets mortgaged or pledged by a debtor of Secured Obligations other than the Pledgor be comprised in a foreclosure and will be sold first pursuant to section 3:234 DCC, which waivers are hereby accepted by the Pledgee.

18.4 No variation of this Deed shall be considered valid and as constituting part of this Deed, unless such variation shall have been made in writing and signed by the Pledgee, the Company and the Pledgor.

19. FURTHER REPRESENTATIONS AND WARRANTIES OF THE COMPANY

19.1 The Company represents and warrants to the Pledgee that:

- (a) the Present Shares have been validly issued, are fully paid up and constitute one hundred per cent. (100%) of the issued and outstanding share capital of the Company;
- (b) it is not aware of any adverse claims against any of the Shares; and
- (c) the Pledgor has been a shareholder of the entire issued and outstanding share capital of the Company since it acquired the Present Shares as set out in clause 4 (b).

19.2 The Company furthermore represents and warrants to the Pledgee that:

- (a) no deed of transfer (*akte van levering*) or deed of pledge (*pandakte*) (other than this Deed) or other document granting or purporting to grant a security right or other encumbrance (*beperkt recht*) or other proprietary interest (*goederenrechtelijk belang*) which is continuing at the date of execution of this Deed in relation to any of the Shares or any of the other Pledged Assets has been served upon or otherwise notified or submitted to the Company or acknowledged by the Company and the Pledgor is, therefore, to the best of the Company's knowledge the sole, legal and beneficial owner of the Present Shares and the Related Assets pertaining thereto as well as all other Pledged Assets, free and clear of any encumbrances whatsoever, except for this Deed;
- (b) there are no persons with the right to attend the general meeting (*vergaderingerechtigden*) as referred to in section 2:227, paragraph 1, DCC other than the present shareholder;

- (c) to the Company's best knowledge and belief all representations and warranties on the part of the Pledgor contained in this Deed are, on the date of this Deed, correct and accurate; and
- (d) it has not authorised a legal merger (*juridische fusie*), legal demerger (*juridische splitsing*) or conversion (*omzetting*) of the Company.

20. NOTICES

Any notice or other communication to be given under this Deed shall be made in accordance with and subject to clause 32 (*Notices*) of the Facilities Agreement, whereby:

- (a) "Borrower" should be read as "Pledgor" and "Company", with the notice details of the Company being:
Address: Verlengde Poolseweg 16, 4818 CL Breda, The Netherlands
For the attention of: the board of managing directors
- (b) "Agent" should be read as "Pledgee".

21. MISCELLANEOUS PROVISIONS

- 21.1 Where rights of pledge with a certain ranking (*rang*) are envisaged to be created under or pursuant to this Deed, the Parties agree that where such rights of pledge cannot be created with such ranking, such rights of pledge are still created, ranking immediately behind all earlier ranking rights and the Pledgor will take such steps to have such earlier interest(s) released as the Pledgee may specify, all without prejudice to the Pledgee's rights and remedies under and pursuant to this Deed because the ranking envisaged to be created has not been achieved.
- 21.2 Any pledge (*verpanding*) of a Pledged Asset hereunder or pursuant hereto shall expressly comprise all Ancillary Rights in respect of such Pledged Asset.
- 21.3 As to Ancillary Rights and Voting Rights:
 - (a) if and insofar as Ancillary Rights such as accessory and dependent rights (*nevenrechten en afhankelijkke rechten*) connected to the Pledged Assets, rights of pledge (*pandrecht*) or rights arising out of a suretyship (*borgtocht*) or guarantees (including bank guarantees) have not already passed to the Pledgee by virtue of the pledge created by or pursuant to this Deed at any time after the security created by or pursuant to this Deed has become enforceable; and
 - (b) if and insofar as Voting Rights will not have effectively become vested

in the Pledgee as envisaged by clause 7.6,
the Pledgor hereby grants an irrevocable power of attorney to the Pledgee in order to exercise such rights in the Pledgor's name (but in the Pledgee's own interest, and without any obligation on the part of the Pledgee to use this power of attorney), subject to the terms and conditions of this Deed. Clause 9.1, second, third and fourth sentence, shall apply accordingly to this power of attorney.

21.4 If, and to the extent that, any security interest created by or pursuant to this Deed is, for whatever reason, not recognised in a foreign jurisdiction, the parties to this Deed agree that such security interest shall also be construed as the closest equivalent security interest that is recognised in such foreign jurisdiction and undertake to do all that is necessary to create, perfect and protect such similar security interest.

22. GOVERNING LAW AND JURISDICTION

22.1 Both:

- (a) this Deed, including sub-clauses 22.2, 22.3 and 22.4; and
- (b) any non-contractual obligations arising out of or in connection with this Deed,

shall be governed by and construed in accordance with the laws of The Netherlands.

22.2 For the exclusive benefit of the Pledgee, each of the Pledgor and the Company irrevocably agrees that, save as provided below, the court (*rechtbank*) of Amsterdam, subject to ordinary appeal (*hoger beroep*) and final appeal (*cassatie*), is to have jurisdiction to settle any disputes which may arise out of or in connection with this Deed and that accordingly any proceedings (referred to in this clause as "**Proceedings**") arising out of or in connection with this Deed may be brought in such court.

22.3 Each of the Pledgor and the Company irrevocably waives (i) any objection which it may have now or hereafter to the venue of any Proceedings being the court of Amsterdam and (ii) any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a final judgment in any such Proceedings brought in such court which either cannot be appealed or is not appealed within the time limit for doing so may be enforced in any jurisdiction.

22.4 Nothing in this clause shall limit the right of the Pledgee or any Beneficiary to take action against the Pledgor or the Company in any court of competent jurisdiction nor shall the taking of Proceedings by the Pledgee or any Beneficiary against the Pledgor or the Company respectively in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

FINAL PROVISIONS

Attached to this deed are three (3) non-notarial instruments evidencing the powers of attorney to the appearers.

The appearers are known to me, notary.

This deed is executed in Amsterdam on the date mentioned in the heading of this deed.

After the substance of this deed and an explanation thereon have been stated to the appearers, the appearers have declared to have taken notice of the contents of this deed and to consent to the deed not being read out in full.

Immediately after those parts of the deed that the law requires to be read out have been read out, this deed is signed by the appearers and by me, notary at thirteen hours and twenty-nine minutes.

(Signed: A. Jansen, M.S. Dundas, J. de Witte, J.B. de Snaijer)



OR TRUE COPY: