



Registration of a Charge

Company name: **CLYDE UNION LIMITED**

Company number: **SC317760**

Received for Electronic Filing: **25/06/2020**



X97XINGX

Details of Charge

Date of creation: **11/06/2020**

Charge code: **SC31 7760 0012**

Persons entitled: **BNP PARIBAS (AS COLLATERAL AGENT)**

Brief description:

Contains floating 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: **SHEPHERD AND WEDDERBURN LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 317760

Charge code: SC31 7760 0012

The Registrar of Companies for Scotland hereby certifies that a charge dated 11th June 2020 and created by CLYDE UNION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th June 2020 .

Given at Companies House, Edinburgh on 26th June 2020

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



SHEPHERD+ WEDDERBURN

SCOTTISH FLOATING CHARGE
(Scottish shares) (Second lien)
between

CLYDE UNION LIMITED
as Chargor

and

BNP PARIBAS
as Collateral Agent

SCOTTISH FLOATING CHARGE between:

- (1) **CLYDE UNION LIMITED**, a company incorporated under the Companies Acts in Scotland with registered number SC317760 and having its registered office at 149 Newlands Road, Cathcart, Glasgow, G44 4EX (the "**Chargor**");
- and
- (2) **BNP PARIBAS**, a public company incorporated in France and registered with the French Trade and Companies Register (*Registre du Commerce et des Sociétés*) (Paris 662 042 449), acting by its New York branch at 787 Seventh Avenue, New York, NY 10019, United States of America, in its capacity as security trustee for the Secured Parties under and on the terms and conditions as set out in the Second Lien Credit Agreement and the Second Lien English Security Agreement aftermentioned (the "**Collateral Agent**" which expression shall include its successors and assignees as security trustee aforesaid).

WHEREAS:

- (A) By a second lien credit agreement dated 30 March 2020 and made between, amongst others, Boardwalk Parent, LLC (now Celeros Flow Technology, LLC), the financial institutions party thereto as Lenders and the Collateral Agent as Administrative Agent (the "**Second Lien Credit Agreement**"), certain facilities have been provided by the Lenders to the Borrower on the terms of the Second Lien Credit Agreement.
- (B) The provision of this Scottish Floating Charge is a condition under the terms of the Second Lien Credit Agreement. This Scottish Floating Charge is a "Scottish Collateral Agreement" as defined in the Second Lien Credit Agreement.
- (C) The Collateral Agent holds the Security Trust Property on trust for the Secured Parties on the terms set out in the Second Lien Credit Agreement and the Second Lien English Security Agreement.
- (D) The Chargor has, on or before the effective date hereof, entered into the Subsidiary Guarantee Agreement and is a Guarantor for the purposes of the Second Lien Credit Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In this Scottish Floating Charge:

"**Administrator**" means any administrator appointed under this Scottish Floating Charge to manage the affairs, business and assets of the Chargor.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Debt**" means any book or other debt, revenue or claim.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Collateral Agent.

"**Discharge Date**" has the meaning given to the term Termination Date in the Second Lien Credit Agreement.

"**Event of Default**" has the meaning given to that term in the Second Lien Credit Agreement.

"**First Lien Credit Agreement**" means the first lien credit agreement dated 30 March 2020 and made between, amongst others, Boardwalk Intermediate, LLC, Boardwalk Parent, LLC, the financial institutions party thereto as lenders and BNP Paribas as administrative agent.

"**First Lien Loan Documents**" has the meaning given to the term "Loan Documents" in the First Lien Credit Agreement.

"**Insolvency Event**" in relation to a person includes the dissolution, bankruptcy, insolvency, winding-up, liquidation, administration, examination, amalgamation, reconstruction, reorganisation, arrangement, adjustment, administrative or other receivership or dissolution of

that person, the official management of all of its revenues or other assets or the seeking of protection or relief from debtors and any equivalent or analogous proceeding, whatever it is called, in any jurisdiction.

"Insurance" means any policy or contract of insurance.

"Intercreditor Agreement" means the intercreditor agreement, dated as of 30 March 2020 (as amended, restated, supplemented or otherwise modified from time to time) by and among BNP Paribas, in its capacity as the first lien agent, BNP Paribas, in its capacity as the first lien collateral agent, BNP Paribas, in its capacity as the second lien agent, and BNP Paribas, in its capacity as the second lien collateral agent.

"Lease" means any lease, tenancy, licence, sub-lease, sub-licence or other occupational right.

"Losses" means losses (including loss of profit), claims, demands, actions, proceedings, damages and other payments, costs, expenses and other liabilities of any kind.

"Party" means a party to this Scottish Floating Charge.

"Receiver" means any receiver, receiver and manager or administrative receiver appointed under this Security Agreement by the Collateral Agent over all or any of the Security Assets whether solely, jointly, severally or jointly and severally with any other person and includes any substitute for any of them appointed from time to time.

"Related Rights" means all dividends, distributions and other income paid or payable on any Scottish Shares, together with all shares or other property derived from any Scottish Shares and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to those Scottish Shares (whether by way of conversion, redemption, bonus, preference, option or otherwise).

"Schedule" means the schedule annexed to this Scottish Floating Charge.

"Scottish Companies" means the companies listed in the table in the Schedule to this Scottish Floating Charge.

"Scottish Shares" the Chargor's whole right, title, interest and benefit (both present and future) in and to the Shares held in the Scottish Companies.

"Second Lien Credit Agreement" shall have the meaning set out in Recital (A) to this Scottish Floating Charge.

"Second Lien English Security Agreement" means the second lien English law security agreement dated on or around the effective date hereof and entered into between, amongst others, the Chargor and the Collateral Agent.

"Second Lien Loan Documents" has the meaning given to the term "Loan Documents" in the Second Lien Credit Agreement and includes the Second Lien Credit Agreement, the Second Lien English Security Agreement and this Scottish Floating Charge.

"Secured Obligations" means the "Obligations" as defined in the Second Lien Credit Agreement, as such "Obligations" (and/or the Second Lien Credit Agreement or other Second Lien Loan Documents) may be amended, amended and restated, supplemented, replaced, renewed, restructured, extended, refunded, refinanced or otherwise modified from time to time (including, without limitation, where such transactions result in any increases or decreases of the principal amount of the "Obligations", any extensions of maturity or any changes in interest rates or other economic terms), but excluding any money, obligation or liability which would cause the undertaking set out in Clause 2.1 (*Undertaking to pay*) or the security which would otherwise be constituted by this Scottish Floating Charge to be unlawful or prohibited by any applicable law or regulation.

"Secured Party" and **"Secured Parties"** has the meaning given to that term in the Second Lien Credit Agreement.

"Security Assets" means each of the assets and undertaking of the Chargor which from time to time are, or are expressed to be, the subject of the security created or expressed to be created by it in favour of the Collateral Agent under this Scottish Floating Charge.

"Security Enforcement Party" means the Collateral Agent, any Receiver or any Delegate.

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

"Security Trust Property" means the security created under this Scottish Floating Charge, the proceeds of such security, any rights or other assets expressed in this Scottish Floating Charge to be granted to or held by the Collateral Agent as trustee and any rights granted in this Scottish Floating Charge to any Secured Parties that are not party to this Scottish Floating Charge.

"Shares" means any stock, share, debenture or other security.

"VAT" means:

- (i) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (ii) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (i) above, or imposed elsewhere.

1.2 Terms defined in other Second Lien Loan Documents

Unless defined in this Scottish Floating Charge, or the context otherwise requires, a term defined in the Second Lien Credit Agreement or the Second Lien English Security Agreement has the same meaning in this Scottish Floating Charge, or any notice given under or in connection with this Scottish Floating Charge, as if all references in those defined terms to the Second Lien Credit Agreement or the Second Lien English Security Agreement (as applicable) were a reference to this Scottish Floating Charge or that notice.

1.3 Collateral Agent

The Collateral Agent executes this Scottish Floating Charge in the exercise of the rights, powers and authority conferred and vested in it under the Second Lien Credit Agreement and the Second Lien English Security Agreement for and on behalf of the Secured Parties for whom it acts. It will exercise its powers, rights, duties and authority under this Scottish Floating Charge in the manner provided for in the Second Lien Credit Agreement and the Second Lien English Security Agreement and, in so acting, it shall have the protections, exculpations, immunities, limitations of liability, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Second Lien Credit Agreement and the Second Lien English Security Agreement.

1.4 Construction

In this Scottish Floating Charge:

- 1.4.1 The rules of interpretation contained in Section 1.02 (*Terms Generally*) and Section 9.14 (*Headings*) of the Second Lien Credit Agreement shall apply to the construction of this Scottish Floating Charge, or in any notice given under or in connection with this Scottish Floating Charge with such other changes as are appropriate to fit this context.
- 1.4.2 In addition, in this Scottish Floating Charge, unless a contrary indication appears any reference to:
 - (i) the **"Collateral Agent"**, the **"Secured Parties"**, a **"Chargor"** or any **"Loan Party"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Collateral Agent, any person for the time being appointed as Collateral Agent (including security trustee) in accordance with the Second Lien Credit Agreement and the Second Lien English Security Agreement;
 - (ii) **"assets"** includes present and future properties, revenues, rights and other assets of every description. Any reference to an asset includes any proceeds of disposal of all or part of that asset and any other monies paid or payable in respect of that asset and any reference to a particular type or category of assets includes any present or future assets of that type or category;

- (iii) a **"disposal"** includes any pledge, assignation, lease, licence, transfer, sale or other disposal of any kind (with related words being construed accordingly);
 - (iv) any **Second Lien Loan Document** or other document is to that Second Lien Loan Document or other document as supplemented, otherwise amended, replaced or novated from time to time (however fundamental that amendment, novation or replacement may be, even if it involves increased, new, additional, extended and/or replacement facilities or an increase in any other amount or rate);
 - (v) the masculine, feminine or neuter gender respectively includes the other genders and the singular includes the plural (and vice versa);
 - (vi) **"including"** means **"including without limitation"** (with related words being construed accordingly), **"in particular"** means **"in particular but without limitation"** and other general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of assets, matters or things;
 - (vii) a **Party** or other **particular person** includes its successors in title (including in the case of the Collateral Agent any successor Collateral Agent and security trustee), permitted assignees and permitted transferees in accordance with their respective interests;
 - (viii) anything which is **"permitted by the Second Lien Credit Agreement"** or **"expressly permitted by the Second Lien Credit Agreement"** includes any action which is not expressly prohibited pursuant to the terms of the Second Lien Credit Agreement
 - (ix) a **"person"** includes any individual, firm, company or other corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of them;
 - (x) a **provision of law** is to that provision as amended, re-enacted or replaced from time to time and includes any subordinated legislation in force under it from time to time;
 - (xi) a **"Recital"** is to a statement made under the heading "Whereas" above and any reference to a "Clause" or to a "Schedule" is to a clause of or a schedule to this Scottish Floating Charge (as the case may be);
 - (xii) a **"right"** includes any title, estate, interest, claim, remedy, power, authority, discretion or other right of any kind, both present and future. Any reference to the Chargor's rights in any document or asset (or any type or category of documents or assets) includes any rights that it holds from time to time in, to, under, in respect of or derived from that document or asset (or any document or asset of that type or in that category);
 - (xiii) **"this Security"** or **"this Scottish Floating Charge"** means the Security Interests constituted by or pursuant to this Scottish Floating Charge; and
 - (xiv) **this Scottish Floating Charge** includes the Recitals and Schedules which form part of this Scottish Floating Charge for all purposes.
- 1.4.3 References in this Scottish Floating Charge to any Clause or Schedule shall be to a Clause or Schedule contained in this Scottish Floating Charge.
- 1.4.4 The index and Clause and Schedule headings are for ease of reference only.
- 1.4.5 If there is any inconsistency between the terms of this Scottish Floating Charge and those of the Second Lien Credit Agreement and the Intercreditor Agreement, the terms of the Second Lien Credit Agreement or the Intercreditor Agreement (as applicable) shall prevail.

1.5 Third party rights

- 1.5.1 A person who is not a Party (other than any Receiver, Delegate or Administrator) has no right under the Contract (Third Party Rights) (Scotland) Act 2017, or any equivalent legislation or laws under application Jurisdictions, to enforce or enjoy the benefit of any term of this Scottish Floating Charge.
- 1.5.2 Notwithstanding Clause 1.5.1, no consent of any person who is not a Party is required to rescind or vary this Scottish Floating Charge at any time.

1.6 Subordination of this Scottish Floating Charge

Notwithstanding anything herein to the contrary:

- 1.6.1 the Security Interests granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Scottish Floating Charge; and
- 1.6.2 the exercise of any right or remedy by the Collateral Agent hereunder or the application of proceeds (including insurance proceeds and condemnation proceeds) of the Security Assets,

are subject to the provisions of the Intercreditor Agreement.

2. Payment of the Secured Obligations

2.1 Undertaking to pay

The Chargor covenants with and undertakes to the Collateral Agent to pay and discharge, or procure the payment or discharge of, each of the Secured Obligations at the time and in the manner provided in the relevant Second Lien Loan Document for their payment or discharge by the relevant Loan Party.

2.2 Interest

If any amount payable under Clause 2.1 (*Undertaking to pay*) is not paid on its due date, interest shall accrue on a daily basis on the overdue amount from the due date up to the date of actual payment (both before and after judgment). This interest shall accrue at the rate and on the terms from time to time applicable under the relevant document (or, in the absence of an applicable rate and applicable terms, shall be calculated and accrue in the manner referred to in Clause 2.13(c)(ii) (*Interest*) of the Second Lien Credit Agreement as if it were an overdue amount for the purpose of that clause and shall be payable on demand).

2.3 Further advances

This Scottish Floating Charge is made to secure any further advances or other facilities made available by any Secured Party under the Second Lien Loan Documents. It does not create any obligation on any Secured Party to make any further advances or other facilities available

3. Creation of Security Interests

3.1 General provisions regarding Security Interests

- 3.1.1 All of the security created under this Scottish Floating Charge:
- (i) is granted to the Collateral Agent as security trustee for the Secured Parties under and in terms of the Second Lien Credit Agreement and the Second Lien English Security Agreement; and
 - (ii) secures the payment and discharge of the Secured Obligations.
- 3.1.2 If, to the extent and for so long as any charge created under this Scottish Floating Charge fails to take effect over the Chargor's rights in any Security Asset because an Authorisation necessary for it to do so has not been obtained or made, the Chargor shall:
- (i) use its reasonable endeavours to obtain or make the Authorisation as soon as possible; and

- (ii) until it is obtained or made, hold the relevant rights on trust for the Collateral Agent.

3.2 Floating Charge

- 3.2.1 As continuing security for the payment and discharge of all of the Secured Obligations the Chargor HEREBY GRANTS to and in favour of the Collateral Agent a floating charge over its whole right, title and interest, present and future, in and to the Scottish Shares and all Related Rights corresponding to the Scottish Shares (including any further, additional or replacement Shares in the Scottish Companies).
- 3.2.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.2.1 above.

3.3 Ranking and priority

The floating charge created pursuant to Clause 3.2 shall, subject to s.464(2) of the Companies Act 1985, rank in accordance with the terms of Clause 2 of the Intercreditor Agreement.

4. Further assurance

4.1 Further assurance

The Chargor shall comply with its obligations under Section 5.10 (*Further Assurances: Additional Security*) of the Second Lien Credit Agreement.

5. Negative pledge and disposals

5.1 Negative pledge

The Chargor undertakes that it will not create or permit to subsist any Security Interest over any of the Security Assets except as expressly permitted by the Second Lien Credit Agreement.

5.2 No disposals

The Chargor undertakes that it will not dispose of (or agree to dispose of) any Security Asset except as expressly permitted by the Second Lien Credit Agreement.

6. Enforcement – general provisions

6.1 Enforcement

- 6.1.1 On or at any time after the occurrence of an Event of Default which is continuing, the security created under this Scottish Floating Charge shall become immediately enforceable and the Collateral Agent (or its nominee) may enforce the security created under this Scottish Floating Charge, and its rights under this Scottish Floating Charge, in the manner and on the terms it thinks fit.
- 6.1.2 In particular, the Collateral Agent may without further notice exercise in relation to the Security Assets:
 - (i) the power of sale and all other powers conferred on creditors by the Conveyancing and Feudal Reform (Scotland) Act 1970 or otherwise by law, in each case as extended or otherwise amended by this Scottish Floating Charge;
 - (ii) to the extent that Clause 7 (*Right of appropriation*) applies, the power to appropriate the relevant Security Assets in accordance with Clause 7.2 (*Exercise of right of appropriation*); and
 - (iii) (whether or not it has appointed a Receiver) any or all of the rights which are conferred by this Scottish Floating Charge (whether expressly or by implication) on a Receiver.

6.2 Protection of third parties

- 6.2.1 No purchaser, mortgagee or other person dealing with a Security Enforcement Party shall:

- (i) be bound to enquire whether its entitlement to exercise any of its rights has arisen or become exercisable or whether any Secured Obligations remain outstanding; or
- (ii) be concerned as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with the Security Enforcement Party.

6.3 Delegation

- 6.3.1 The Collateral Agent and (to the extent his or her appointment so permits) a Security Enforcement Party (the "**Appointor**") may delegate to any person or persons all or any of the rights which are exercisable by it under this Scottish Floating Charge. A delegation under this Clause 6.3 (*Delegation*) may be made in any manner (including by power of attorney) and on any terms (including power to sub-delegate) which the Appointor may think fit.
- 6.3.2 A delegation under Clause 6.3.1 shall not preclude the subsequent exercise of the relevant rights by the Appointor nor preclude the Appointor from making a subsequent delegation of them to another person or from revoking that delegation.
- 6.3.3 Neither the Collateral Agent nor any Security Enforcement Party shall be liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

6.4 No liability

- 6.4.1 No Security Enforcement Party or Administrator shall:
 - (i) owe any duty to the Chargor to exercise any of its rights under this Scottish Floating Charge; or
 - (ii) be liable or responsible to the Chargor for any Losses arising out of any exercise, purported exercise or non-exercise of any of its rights under this Scottish Floating Charge.
- 6.4.2 Neither a Security Enforcement Party nor any Administrator shall be liable as a mortgagee or creditor in possession or otherwise to account in relation to all or any part of the Security Assets for any loss on realisation or for any other action, default or omission for which it might otherwise be liable as a mortgagee in possession.

7. Right of appropriation

7.1 Application of right of appropriation

This Clause 7 (*Right of appropriation*) applies to the extent the Security Assets constitute "financial collateral" and this Scottish Floating Charge constitutes a "financial collateral arrangement" (within the meaning of the Financial Collateral Arrangements (No. 2) Regulations 2003).

7.2 Exercise of right of appropriation

- 7.2.1 If and to the extent that this Clause 7 (*Right of appropriation*) applies, the Collateral Agent may appropriate the Security Assets in or towards discharge of the Secured Obligations in such order as the Collateral Agent may (subject to any specific provisions of the Second Lien Loan Documents in this regard) determine.
- 7.2.2 If the Collateral Agent exercises its right of appropriation then it shall for these purposes value:
 - (i) any relevant bank account at the amount standing to the credit of that account, together with any accrued interest not credited to the account, at the time of the appropriation; and
 - (ii) any other relevant Security Asset by reference to an independent valuation or other procedure determined by the Collateral Agent, acting reasonably, at the time of the appropriation.

8. Receivers

8.1 Appointment of Receiver

8.1.1 Subject to the remainder of this Clause 8.1, the Collateral Agent may appoint one or (at the same or different times) more persons as a receiver of all or any part of the Security Assets if:

- (i) this Scottish Floating Charge has become enforceable; or
- (ii) the Chargor or the Borrower so requests in writing at any time.

8.1.2 No appointment may be made pursuant to Clause 8.1:

- (i) solely as a result of the obtaining of, or with a view to obtaining, a moratorium under s1A of the Insolvency Act 1986; or
- (ii) of an administrative receiver if that appointment would contravene s72A of the Insolvency Act 1986.

8.1.3 If at any time two or more persons hold office as Receivers, each of those Receivers shall (subject to the terms of his or her appointment) be entitled to exercise individually all of the rights conferred on Receivers under this Security Agreement to the exclusion of the other or others.

8.2 Remuneration

The Collateral Agent may fix the remuneration of any Receiver from time to time, without being limited by the maximum rate specified in the Insolvency Act 1986.

8.3 Removal and replacement

The Collateral Agent may:

- 8.3.1 subject to obtaining a court order if required by law, remove any Receiver by written notice; and
- 8.3.2 replace (by appointment pursuant to Clause 8.1) any Receiver whose appointment has terminated.

8.4 Agent of the Chargor

8.4.1 Any Receiver appointed under this Scottish Floating Charge whether acting solely or jointly shall be deemed to be the agent of the Chargor and to be in the same position as a receiver appointed under the Insolvency Act 1986.

8.4.2 The Chargor shall be solely responsible for the acts, omissions, defaults, losses and misconduct of any Receiver and for his or her remuneration. The Collateral Agent shall not be in any way liable or responsible either to the Chargor or to any other person for any Receiver.

9. Powers of Security Enforcement Parties

9.1 General

9.1.1 A Receiver has:

- (i) all of the rights set out below in this Clause 9;
- (ii) all of the rights granted by the Conveyancing and Feudal Reform (Scotland) Act 1970 to creditors;
- (iii) all of the rights and powers granted by Schedule 2 to the Insolvency Act 1986; and
- (iv) whether or not it is an administrative receiver, all of the rights granted by the Insolvency Act 1986 to any administrative receiver,

in each case as such rights are varied and extended by this Scottish Floating Charge.

9.1.2 The Collateral Agent has after this Scottish Floating Charge has become enforceable the rights referred to in Clause 9.1.1, whether or not it has appointed a Receiver.

- 9.1.3 A Delegate has the rights referred to in Clause 9.1.1 to the extent provided in its, his or her appointment.
- 9.1.4 Any reference in this Clause 9 to any Security Assets includes, in the case of a Receiver or Delegate, only those Security Assets over or in respect of which it, he or she has been appointed.
- 9.1.5 A Security Enforcement Party may exercise its, his or her rights under this Clause 9 in such manner and on such terms as it, he or she thinks fit.

9.2 Collection, leasing and disposal of Security Assets

- 9.2.1 The right to enter into, take possession of, give up possession of, get in and collect any Security Asset.
- 9.2.2 The right to grant, vary, surrender or accept the surrender of Leases, title conditions or other rights over or in respect of Security Assets on such terms as the Security Enforcement Party may think fit.
- 9.2.3 The right to sell or otherwise dispose of any Security Asset on any terms and for any consideration as the Security Enforcement Party may think fit. This consideration may include cash, debentures, obligations, shares or other security and may be payable in a lump sum or instalments.
- 9.2.4 The right to sever any plant, machinery or other fixtures from the premises to which they are attached and the right to dispose of them separately in accordance with Clause 9.2.3.
- 9.2.5 The right, in connection with or to facilitate any disposal, to release or discharge, whether or not for any consideration, any Debts comprised in the Security Assets.
- 9.2.6 The right to give a valid receipt for any money and execute any discharge, assurance or other document which may be proper or desirable to realise any Security Asset.

9.3 Upkeep of Security Assets

- 9.3.1 The right to repair, decorate, furnish, maintain, alter, improve, replace, renew or add to the Security Assets.
- 9.3.2 The right to develop any Security Asset and for that purpose to apply for any Authorisations, enter into any documents and carry out any works.
- 9.3.3 The right to insure any Security Assets.

9.4 Carrying on business

- 9.4.1 The right to carry on any business of the Chargor.
- 9.4.2 The right to appoint or dismiss officers, employees, agents, contractors, advisors and others.
- 9.4.3 The right to purchase, lease or otherwise acquire any assets.
- 9.4.4 The right to borrow or otherwise raise money either unsecured or on the security of the Security Assets (whether ranking in priority to, pari passu with or behind this Security).
- 9.4.5 The right to lend money or advance credit to any customer of a Chargor.

9.5 Contracts and proceedings

- 9.5.1 The right to perform, repudiate, terminate, amend or enter into any contract or other document relating to any Security Asset.
- 9.5.2 The right to bring, prosecute, defend, enforce and discontinue any action, suit, arbitration or other proceedings relating to any Security Assets.
- 9.5.3 The right to pursue, settle, arrange, compromise or submit to arbitration any claim, account, dispute or demand relating to, or to make any VAT election in respect of, any Security Asset.

9.6 Other rights

- 9.6.1 The right to form a subsidiary of the Chargor and the right to lease, license or transfer any Security Asset to it.
- 9.6.2 The right to do any other act or thing which the Security Enforcement Party may consider:
 - (i) desirable or necessary to protect, preserve or realise any Security Asset; or
 - (ii) incidental or conducive to any rights conferred on the Security Enforcement Party under or by virtue of this Scottish Floating Charge or by law.
- 9.6.3 The right to exercise and do in relation to any Security Asset all the rights and things which the Security Enforcement Party would be capable of exercising or doing if it, he or she were the absolute beneficial owner of that Security Asset.
- 9.6.4 The right to use the name of the Chargor to exercise any of the rights referred to in this Clause 9.

9.7 Shares

- 9.7.1 The right to secure and perfect the title of the Collateral Agent to the Security Assets (including transferring the same into the name of the Collateral Agent or its nominee (to the extent that the same are not held in such name)).
- 9.7.2 The right to take possession of and hold, dispose of, sell, apply, transfer or convert into cash all or any part of the Security Assets (and any assets of the Chargor which would be part of the Security Assets), at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration and whether in whole or in part).
- 9.7.3 The right to receive any money payable in connection with the Security Assets.
- 9.7.4 The right to negotiate, compromise and/or agree any dispute arising out of the Security Assets.
- 9.7.5 The right to otherwise exercise all the rights of an absolute owner in relation to the Security Assets.

10. Appointment of Administrator

10.1 Appointment of Administrator

- 10.1.1 The Collateral Agent may without notice appoint any one or more persons to be an administrator of the Chargor pursuant to Schedule B1, Paragraph 14 of the Insolvency Act 1986 at any time after this Scottish Floating Charge has become enforceable.
- 10.1.2 Clause 10.1.1 shall not apply to the Chargor if Schedule B1, Paragraph 14 of the Insolvency Act 1986 does not permit an administrator of the Chargor to be appointed.
- 10.1.3 Any appointment under Clause 10.1.1 shall be made in the prescribed form by the Collateral Agent.

10.2 Replacement of an Administrator

The Collateral Agent may apply to the court for the termination of the appointment of any Administrator and/or the appointment of a replacement for any Administrator whose appointment ends for any reason.

11. Dealing with proceeds

11.1 Application of proceeds of enforcement, etc

- 11.1.1 Any monies received by the Collateral Agent or any Receiver under this Scottish Floating Charge after the security created under this Scottish Floating Charge has become enforceable shall be applied in the following order of priority:

- (i) in or towards payment of, or provision for, all amounts due to or Losses incurred by any Security Enforcement Party under or in connection with this Scottish Floating Charge and all remuneration due under or in connection with this Scottish Floating Charge;
 - (ii) in payment to the Collateral Agent to be applied in accordance with Section 7.02 (*Treatment of Certain Payments*) of the Second Lien Credit Agreement; and
 - (iii) if no Chargor is under any further actual or contingent liability under the Second Lien Loan Documents, in payment of the surplus (if any) to the person or persons entitled to it.
- 11.1.2 Notwithstanding Clause 11.1.1, until the Discharge Date the Collateral Agent or any Receiver may:
 - (i) refrain from applying or enforcing any other monies, Security Interests or other rights held or received by It in respect of the Secured Obligations or apply and enforce them in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
 - (ii) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Secured Obligations.
- 11.1.3 Clause 11.1.1 is without prejudice to the right of the Collateral Agent to recover any shortfall from the Chargor.
- 11.2 Insurance proceeds**
 - 11.2.1 All monies received by the Chargor by virtue of any insurance on the Security Assets, whether or not effected under this Scottish Floating Charge:
 - (i) shall be part of the Security Assets; and
 - (ii) at any time after this Scottish Floating Charge has become enforceable shall (subject to any rights of third parties arising under any applicable law and regulation or under any Lease) be paid to the Collateral Agent (and until so paid shall be held on trust for the Collateral Agent).

This Clause 11.2.1 shall apply whether the event pursuant to which those monies became payable occurred before, on or after the date of this Scottish Floating Charge.
 - 11.2.2 Any monies so paid to the Collateral Agent (or otherwise received by any Security Enforcement Party by virtue of any insurance on the Security Assets) shall be applied at the discretion of the Collateral Agent either in reduction of the Secured Obligations or in or towards making good the loss or damage in respect of which they became payable. The Chargor waives any right it may have to require that those monies be applied in or towards making good the loss or damage in respect of which they became payable.

12. General security provisions

12.1 Continuing security

The security created under this Scottish Floating Charge is, and shall remain in force as, a continuing security for the Secured Obligations, regardless of any intermediate payment or discharge, unless and until it is released and discharged in writing by the Collateral Agent.

12.2 Additional security

The security created under this Scottish Floating Charge is in addition to and is not in any way prejudiced by any other guarantee or Security Interest now or subsequently held by or on behalf of any Secured Party.

12.3 Waiver of defences

The obligations of the Chargor under this Scottish Floating Charge will not be discharged, impaired or otherwise affected by any act, omission, matter or thing which, but for this Clause

12.3 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Scottish Floating Charge, including (whether or not known to it or any Secured Party):

- 12.3.1 any time, waiver or consent granted to, or composition with, any Loan Party or any other person;
- 12.3.2 the release of any Loan Party or any other person under the terms of any composition or arrangement with any creditor;
- 12.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security Interest over the assets of, the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any document or any failure to take, or failure to realise the full value of, any Security Interest;
- 12.3.4 any supplement, extension, restatement, other amendment or novation or replacement of any Second Lien Loan Document or any other security or other document, however fundamental that amendment, novation and replacement may be and whether or not more onerous, including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Second Lien Loan Document or other Security Interest or other document;
- 12.3.5 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Loan Party or any other person;
- 12.3.6 any unenforceability, illegality or invalidity of any of the Secured Obligations or any other obligation of any person under any Second Lien Loan Document or any other document or Security Interest; or
- 12.3.7 any Insolvency Event in relation to any person.

12.4 **Non-competition**

Until the Discharge Date, the Chargor shall not exercise any rights it may have by reason of a claim being made against it under this Scottish Floating Charge or its performing any of its obligations under it:

- 12.4.1 to claim any indemnity or contribution from any person;
- 12.4.2 to take (by way of subrogation or otherwise) the benefit of any right of any Secured Party;
- 12.4.3 to bring legal or other proceedings for an order requiring any Loan Party to make any payment, or perform any obligation, in respect of any Secured Obligation;
- 12.4.4 to claim or prove as a creditor of any person in competition with any Secured Party; or
- 12.4.5 to receive, claim or have the benefit of any payment, distribution or Security Interest from or on account of any Loan Party or exercise any right of set-off against any Loan Party.

The Chargor shall hold any payment or other benefit received by it contrary to this Clause 12.4 (*Non-competition*) on trust for the Collateral Agent and promptly pay or transfer the same to the Collateral Agent for application in accordance with Clause 11.1 (*Application of proceeds of enforcement, etc*).

12.5 **Immediate recourse**

The Chargor waives any right it may have of first requiring any Secured Party to enforce any Security Interest or other right, or claim payment from or proceed against any other person, before claiming from it under this Scottish Floating Charge. This waiver applies irrespective of any applicable law and regulation or any provision of any Second Lien Loan Document to the contrary.

12.6 **Redemption of prior Security Interests**

12.6.1 The Collateral Agent may at any time:

- (i) redeem, or procure the transfer to itself of, any prior Security Interest over any Security Assets; or

- (ii) settle and pass the accounts of the holder of any prior Security Interest. Any accounts so settled and passed shall in the absence of manifest error be conclusive and binding on the Chargor.

12.6.2 All principal monies, interest, costs, expenses and other amounts incurred in and incidental to any redemption, transfer or settlement under Clause 12.6.1 shall be paid by the Chargor to the Collateral Agent on demand, in each case together with interest calculated in the manner referred to in Clause 2.13(c)(ii) (*Interest*) of the Second Lien Credit Agreement in relation to overdue amounts.

12.7 Subsequent Security Interests

12.7.1 At any time following:

- (i) the receipt by any Secured Party of notice (either actual or constructive) of any subsequent Security Interest affecting any Security Assets;
- (ii) an Insolvency Event occurring in relation to the Chargor; or
- (iii) any disposal of any Security Assets in breach of Clause 5.2 (*No disposals*),

any Secured Party may open a new account or accounts in the name of the Chargor (whether or not it permits any existing account to continue). If a Secured Party does not open such a new account, it shall nevertheless be deemed to have done so at the time of receipt of the notice, the commencement of the Insolvency Event or the disposal.

12.7.2 From that time all payments received by the Secured Party for the account of the Chargor shall be credited or treated as having been credited to the new account (or deemed new account) and shall not operate to reduce the amount secured by this Security at the time of receipt of the notice, the commencement of the Insolvency Event or the disposal.

13. Power of attorney

13.1 The Chargor irrevocably and by way of security appoints each Security Enforcement Party to be its attorney, in its name or otherwise, on its behalf and as its act and deed:

- 13.1.1 to do anything which the Chargor is obliged to do under this Scottish Floating Charge (but has failed to do), including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or other document; and
- 13.1.2 to do any act or thing which may be required or which the attorney may consider desirable in the exercise of any rights conferred on any Security Enforcement Party by this Scottish Floating Charge or by applicable law and regulation.

13.2 The appointment effected under Clause 13.1 shall take effect immediately (or in the case of a Receiver or Delegate, upon the appointment) but the powers conferred shall only become exercisable upon the occurrence of an Event of Default that is continuing.

13.3 The Chargor undertakes to ratify and confirm all acts and things done by an attorney in the exercise or purported exercise of this power of attorney.

14. Changes to the Parties

14.1 Collateral Agent

The Collateral Agent may assign any or all of its rights and transfer any or all of its obligations under this Scottish Floating Charge without the consent of the Chargor being required.

14.2 Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Scottish Floating Charge.

15. Communications

Any communication to be made or delivered under or in connection with this Scottish Floating Charge shall be made in accordance with Section 9.01 (*Notices; Communications*) of the Second Lien Credit Agreement.

16. Calculations and certificates

16.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Scottish Floating Charge, the entries made in the accounts maintained by the Collateral Agent or any other Secured Party are prima facie evidence of the matters to which they relate.

16.2 Certificates and determinations

Any certification or determination of any Secured Party as to any matter provided for in this Scottish Floating Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

17. Partial invalidity

If, at any time, any provision of this Scottish Floating Charge 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 that provision under the law of any other jurisdiction will in any way be affected or impaired.

18. Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any remedy or other right under this Scottish Floating Charge shall operate as a waiver of that remedy or other right. No single or partial exercise of any remedy or other right prevent any further or other exercise or the exercise of any other right. The remedies and other rights provided in this Scottish Floating Charge are cumulative and not exclusive of any remedies and other rights provided by law.

19. Amendments and waivers

Any term of this Scottish Floating Charge may be amended or waived only with the written consent of the Collateral Agent and the Chargor, and any such amendment or waiver will be binding on all Parties.

20. Provisions of the Second Lien Credit Agreement

Any provision of the Second Lien Credit Agreement which is expressed to apply to documents including this Scottish Floating Charge shall, except if and to the extent there is a provision in this Scottish Floating Charge covering the same subject matter, apply to this Scottish Floating Charge as if set out in full here, as if the Chargor were a Loan Party and with such other changes as are appropriate to fit this context.

21. Counterparts, delivery and effective date

21.1 This Scottish Floating Charge may be executed in any number of counterparts and by each of the parties on separate counterparts.

21.2 Where executed in counterpart:

21.2.1 this Scottish Floating Charge will not take effect until each of the counterparts has been delivered;

21.2.2 each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and

21.2.3 the date of delivery may be inserted in the testing clause in the blank provided for the effective date of this Scottish Floating Charge .

22. Governing law

This Scottish Floating Charge and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of Scotland.

23. Enforcement**23.1 Jurisdiction of Scottish courts**

23.1.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Scottish Floating Charge (including a dispute relating to the existence, validity or termination of this Scottish Floating Charge or any non-contractual obligations arising out of or in connection with this Scottish Floating Charge) (a "Dispute").

23.1.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

23.2 Benefit

Clause 23.1 (*Jurisdiction of Scottish courts*), is for the benefit of the Collateral Agent and the other Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF these presents consisting of this and the preceding fourteen pages together with the Schedule annexed hereto are executed in counterpart by the Chargor and the Collateral Agent as follows, with an effective date of 11 JUNE 2020:

SUBSCRIBED for and on behalf of the said
CLYDE UNION LIMITED

Christopher Allen McVicker
.....
Director / Authorised Signatory
(Print Full Name)

[Redacted Signature]
.....
Director / Authorised Signatory
(Signature)

at Charlotte NC
.....
(town of signature)

on May 21, 2020
.....
(date of signature)

Before this witness Susan Warner
.....
Witness
(Print Full Name)

[Redacted Signature]
.....
Witness
(Signature)

1405 Ballantine Cop N Charlotte
.....
(address of witness)

SUBSCRIBED for and on behalf of the said
BNP PARIBAS as Collateral Agent

.....
Authorised Signatory
(Print Full Name)

.....
Authorised Signatory
(Signature)

at.....
(town of signature)

on.....
(date of signature)

Before this witness

.....
Witness
(Print Full Name)

.....
Witness
(Signature)

.....
(address of witness)

22. Governing law

This Scottish Floating Charge and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of Scotland.

23. Enforcement

23.1 Jurisdiction of Scottish courts

23.1.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Scottish Floating Charge (including a dispute relating to the existence, validity or termination of this Scottish Floating Charge or any non-contractual obligations arising out of or in connection with this Scottish Floating Charge) (a "Dispute").

23.1.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

23.2 Benefit

Clause 23.1 (*Jurisdiction of Scottish courts*), is for the benefit of the Collateral Agent and the other Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF these presents consisting of this and the preceding fourteen pages together with the Schedule annexed hereto are executed in counterpart by the Chargor and the Collateral Agent as follows, with an effective date of 11 JUNE 2020:

SUBSCRIBED for and on behalf of the said
CLYDE UNION LIMITED

..... Director / Authorised Signatory (Print Full Name) Director / Authorised Signatory (Signature)
at..... (town of signature)	on..... (date of signature)
Before this witness	
..... Witness (Print Full Name) Witness (Signature)
..... (address of witness)	

SUBSCRIBED for and on behalf of the said
BNP PARIBAS as Collateral Agent

..... Authorised Signatory 1 (Print Full Name) Authorised Signatory 2 (Print Full Name) Authorised Signatory 1 (Signature) Authorised Signatory 2 (Signature)
at <u>New York, NY</u> (town of signature - 1)	at <u>Long Beach, NY</u> (town of signature - 2)	on <u>May 8, 2020</u> (date of signature - 1)	on <u>May 9, 2020</u> (date of signature - 2)
Before this witness			
..... Witness - Auth. Sig. 1 (Signature) Witness - Auth. Sig. 2 (Signature) Witness - Auth Sig. 1 (Print full name) Witness - Auth Sig. 2 (Print full name)
<u>605 Third Ave. NY, NY 10158</u> (address of witness 1)		<u>Yongbiao Xie</u> (address of witness 2)	<u>Duggan MacDonnell</u> (address of witness 2)

**This is the Schedule to the foregoing Scottish Floating Charge by CLYDE UNION LIMITED in
favour of BNP PARIBAS as Collateral Agent**

The Scottish Companies

<u>Scottish company name</u>	<u>Company number</u>
Clyde Union China Holdings Limited	SC325345
Mather & Platt Machinery Limited	SC324717
Girdlestone Pumps Limited	SC324718