

DEED OF HYPOTHECATION

The deed of Hypothecation executed at..... this..... day of..... One Thousand Nine Hundred and..... by a company within the meaning of the Companies Act, 1956 (1 of 1956) and having its Registered Office at..... (hereinafter referred to as "the Borrower" which expression shall, unless it be repugnant to the subject of context thereof, include its successors and assigns) in favour of a public company incorporated under the Indian Companies Act, 1956..... (hereinafter referred to as "the Lender")

Whereas

1. By an agreement dated the..... day of..... 19 entered into between the Borrower and the Lender (hereinafter referred to as "the loan agreement") the Lender has agreed to lend and advance to the Borrower and the Borrower has agreed to borrow from the Lender on the terms and conditions contained in the Loan Agreement a sum to the maximum extent of Rs..... (Rupees.....) (hereinafter referred to as the Loan").

2. One of the conditions of the Loan Agreement is that the Loan together with all interest, liquidated damages, commitment charges, premia on prepayment or on redemption, costs, expenses and other monies whatsoever stipulated in the Loan Agreement shall be secured, *inter alia*, by a first charge by way of Hypothecation of all the Borrower's movables (Save and except book debts) including movable machinery, machinery spares, tools and accessories, present and future subject to prior charges created and/or to be created:

(i) In favour of the Borrower's Bankers on the Borrower's stocks of raw materials, semi-finished and finished goods, consumable stores and such other movables as may be agreed to by the Lender (hereinafter referred to as "the Bankers Goods") for securing the borrowings for working capital requirement in the ordinary course of business.

3. The Lender has called upon the Borrower to execute these presents which the Borrower has agreed to do in the manner hereinafter expressed.

NOW THEREFORE THESE PRESENTS WITNESSETH THAT:

1. In pursuance of the Loan Agreement and in consideration of the Lender having lent and advanced and/or agreed to lend and advance the loan to the Borrower for the purpose and subject to the terms and conditions set out in the Loan Agreement and in consideration of the premises, the Borrower doth hereby covenant with the Lender that it shall repay the loan to the Lender and shall pay interest, commitment charges, liquidated damages, premia on prepayment or on redemption, costs, charges and expenses and all other monies as stipulated and in the manner set out in the Loan Agreement and shall duly observe and perform all the terms and conditions of the Loan Agreement.

2. In pursuance of the Loan Agreement and for the consideration aforesaid, the whole of the movable properties of the Borrower including its movable plant and machinery, machinery spares, tools and accessories and other movables, both present and future (save and except book debts) whether installed or not and whether now lying loose or in cases or which are now

lying) or stored in or about or shall hereafter from time to time during the continuance of these presents be brought into or upon or be stored or be in or about all the Borrower's factories, premises and godowns situated at or wherever else the same may be or be held by any party to the order or disposition of the Borrower or in the course of transit or on high seas or on order or delivery (hereinafter collectively referred to as "the said goods"; short particulars whereof are given in schedule hereto, are hereby hypothecated as and by way of first charge to the Lender as security for and be charged with the repayment of loan and repayment or payment of other monies including all interest, commitment charges, in liquidated damages, premia on prepayment or on redemption, costs, charges and expenses and all other monies due to the Lender under the loan agreement and these presents, provided that the charges created and/or to be created by the Borrower in favour of its Bankers on the Banker's Goods, to secure borrowings' in the ordinary course of business of the Borrower for its working capital requirements.

3. In further pursuance of the Loan Agreement and for the consideration aforesaid, the Borrower doth hereby further agree, declare and covenant with the Lender as follow:

(i) the Borrower shall at its expense keep the said goods in marketable and good condition and insure the same in the joint names of the Borrower, the Lenders and..... as provided in the Loan Agreement against any loss or damage by theft, fire, lightning, earthquake, explosion, riot, strike, civil commotion, storm, tempest, flood, marine risk, erection risk, war risk and such other risks as the Lender shall, from time to time, require with as insurance company or companies. The Borrower shall deliver to the Lender the relevant policies of insurance duly assigned to the Lender and maintain such insurance throughout the continuance of the security of these presents and deliver to the Lender the renewal receipts therefor and shall duly and punctually pay all premia and shall not do or suffer to be done or omit to do or be done any act which may invalidate or avoid such insurance. In default the Lender may (but shall not be bound to) keep in good condition and render marketable the said goods and take out/renew such insurance. Any premium paid by the Lender and any costs, charges and expenses incurred by the Lender shall, forthwith on receipt of a notice of demand from the Lender, be reimbursed to the Lender together with interest thereon at the applicable rate for the loan on the date of the Loan Agreement from the date of payment and until such reimbursement by the Borrower

the same shall be debited to the Borrower's Loan Account and be a charge on the said goods.

(ii) The nominees of the Lender shall, without any notice and at the risk and expense of the Borrower, be entitled at all times to enter any place where the said goods may be and inspect, value, insure, superintend the disposal of and take particulars of all or any part of the said goods and check any statement, accounts, reports and information.

(iii) In the event of any breach or default by the Borrower in the performance of its obligations hereunder or any of terms, covenants, obligations and conditions stipulated in the Loan Agreement or the related

security documents or the deeds executed or that may hereafter be executed by the Borrower in favour of the Lender or in the event of the Borrower failing to pay either the interest or any instalment of the Principal of the Loan, or in the event of the charge or the security created in favour of the Lender having become enforceable for any reason whatsoever, the Lender or its nominees shall, in case such breach or default is not remedied by the Borrower to the satisfaction of the Lender within a period of fifteen days from the date of intimation by the Lender of such breach or default or such extended time as may be granted by the Lender in writing, without any notice and without assigning any reason and at the risk and expense of the Borrower and if necessary as Attorney for and in the name of the Borrower seize, recover, receive and remove them and/ or sell by public auction or by private contract, despatch or consign for realisation or otherwise dispose of or deal with all or any part of the said goods and to enforce, realise, settle, compromise and deal with any rights or claims relating thereto without being bound to exercise any of these powers or be liable for any losses in the exercise or non-exercise thereof and without prejudice to the Lender's rights and remedies of suit or otherwise. Notwithstanding any pending suit or other proceeding, the Borrower undertakes to give immediate possession to the nominees of the Lender on demand of the said goods and to transfer and to delivery to the Lender all relative bills, contracts, securities and documents and the Borrower hereby agreed to accept the Lender's account of sales and realisations as sufficient proof of amounts realised and relative expenses and to pay on demand by the Lender any short fall or deficiency thereby shown. Provided, however, that the Lender shall not be in any way liable or responsible for any loss, damage or depreciation that the said goods may suffer or sustain on any account whatsoever whilst the same are in possession of the Lender or by reason of exercise or non-exercise of rights and remedies available to the Lender as aforesaid and that all such loss, damage or depreciation shall be wholly debited to the account of the Borrower howsoever the same may have been caused.

(iv) The Lender, at any time after the security, hereby created has become enforceable and whether or not the Lender shall then have entered into or taken possession of and in addition to the powers hereinbefore conferred upon the Lender after such entry into or taking possession of, may have a receiver or receivers appointed of the said goods or any part thereof. The following provisions shall apply to such Receiver:

(a) Unless otherwise directed by the Lender, such Receiver shall have and exercise all powers and authorities vested in the Lender;

(b) Such Receiver shall, in the exercise of his powers, authorities and discretions, conform to the regulations and directions from time to time made and given by the Lender;

(c) The Lender may, from time to time, fix the remuneration of such Receiver and shall direct payment thereof out of the said goods, but the Borrower alone shall be liable for the payment of such remuneration;

(d) The Lender may, from time to time and at any time, require such receiver to give security for the due performance of his duties as such Receiver and may fix the nature and amount of the security to be given to the Lender but the Lender shall not be bound to require such security in any case;

(e) The Lender may pay over to such receiver any monies constituting part of the securities to the intent that the same may be applied for the purpose hereof by such Receiver and the Lender may, from time to time, determine what funds the Receiver shall be at liberty to keep in hand with a view to the performance of his duties as such Receiver;

(f) Every such Receiver shall be the agent of the Borrower for all purposes and the Borrower alone shall be responsible for his acts and defaults, loss or misconduct and liable on any contract or engagement made or entered into by him and for his remuneration and the Lender shall not incur any liability or responsibility therefor by reason of its making or consenting to his appointment as such Receiver.

(V) All the said goods and all sale realisations and insurance proceeds thereof and all documents under this security shall always be kept distinguishable and held

as the exclusive property of the Lender specifically appropriated to this security and he dealt with only under the directions of the Lender and the Borrower shall not create any charge, mortgage, lien or other encumbrance upon or over the same or any part thereof except in favour of the Lender nor suffer any such charge, mortgage, lien or other encumbrance or any attachment or distress to affect the same or any part thereof nor do or allow anything that may prejudice this security and the Lender shall be at liberty to incur all costs and expenses as may be necessary to preserve this security and to maintain the same undiminished and claim reimbursement thereof as mentioned in sub-clause (i) hereof provided that except to the extent specifically permitted by the Lender, the Borrower shall not sell all or any of the said goods. The Borrower shall on any and every such sale pay to the Lender, if so required by it, the net proceeds of the sale or disposal in satisfaction so far as the same shall extend, of the monies, due and payable by the Borrower to the Lender provided that the Borrower may without payment to the Lender, if the Lender so agrees, replace the outmoded equipment by equipment of equivalent or greater value.

(vi) The Borrower shall, whenever required by the Lender give full particulars to the Lender of all the assets of the Borrower and of the said goods and shall furnish and verify all statements, reports, returns, certificates and information from time to time and as required by the Lender and may furnish and execute all necessary documents to give effect to this security.

(vii) This security shall be a continuing security for repayment of the Loan together with all interest, commitment charges, liquidated damages, premia on redemption and repayment or payment of all other monies due to the Lender under the loan agreement and these presents and shall not affect, impair or discharge the liability of the Borrower by winding up (voluntary or

otherwise) or by any merger or amalgamation, reconstruction or otherwise of the Borrower with any other company or take over of the management or nationalisation of the undertaking of the Borrower.

(viii) The Borrower hereby declares that the said goods are and will at all time be the absolute property of the Borrower at the sole disposal of the Borrower and subject to the charges created and/or to be created with the specific permission of the Lender be free from any charges, trust, pledge, lien, claim or encumbrance and as to future goods the same shall likewise be unencumbered, absolute and disposable property of the Borrower with full power of disposition over the same provided that the Borrower shall be entitled at all times to sell or dispose of the Banker's goods in the ordinary course of business and also to hypothecate the Banker's goods by way of first charge in favour of its Bankers, such charge(s) in favour of the Bankers to rank in priority over the charge hereby created.

(ix) The Borrower hereby appoints the Lender as its attorney and authorise the lender to act for and in the name of the Borrower to do whatever the Borrower may be required to do under these presents and generally to use the name of the

Borrower in the exercise of all or any of the powers by these presents conferred on the Lender and the Borrower shall bear the expense that may be incurred in this regard.

(x) Nothing herein shall prejudice the rights or remedies of the Lender in respect of any present or future security, guarantees, obligation or decree for any indebtedness or liability of the Borrower to the Lender.

(xi) The provisions contained herein shall be read in conjunction with the provisions of the loan agreement as amended from time to time and to the extent of any inconsistency or repugnancy the latter shall prevail to all intents and purposes.

SCHEDULE

(Short Particulars of movable properties)

In witness whereof the Borrower has caused its common seal to be affixed hereto on the day, month and year first above written.

Witnesses

Borrower

1.....

2.....

Lendor