

08-07-1998

EET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

To the Honorable Commission

100787463

attached original documents or copy thereof.

## 1. Name of Conveying party(ies):

Varel International, Inc.

- ☐ Individual(s)                      ☐ Association  
☐ General Partnership              ☐ Limited Partnership  
☒ Corporation-State  
☐ Other \_\_\_\_\_  
 Additional name(s) of conveying party(ies) attached? ☐ Yes ☐ No

## 3. Nature of conveyance:

- ☐ Assignment                      ☐ Merger  
☒ Security Agreement              ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: June 30, 1998

## 2. Name and address of receiving party(ies):

Name: Bank of Scotland

Internal Address: Branch Operations 3-1

Street Address: 565 Fifth Avenue, 5th Floor

City: New York State: NY ZIP: 10017

- ☐ Individual(s) citizenship \_\_\_\_\_  
☐ Association \_\_\_\_\_  
☐ General Partnership \_\_\_\_\_  
☐ Limited Partnership \_\_\_\_\_  
☐ Corporation-State \_\_\_\_\_  
☒ Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative

designation is attached:

☐ Yes ☐ No

(Designations must be a separate document from Assignment)

Additional name(s) &amp; address(es) attached?

☐ Yes ☐ No

## 4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark registration No.(s)

See Exhibit A  
attached heretoAdditional numbers attached? ☐ Yes ☐ No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Linda Dole

Internal Address: Andrews &amp; Kurth L.L.P.

4200 Chase Tower

Street Address: 600 Travis Street

City: Houston State: TX ZIP: 77002

## 6. Total number of applications and registrations involved

1

## 7. Total fee (37 CFR 3.41):

\$ 40

☒ Enclosed☐ Authorized to be charged to deposit account

## 8. Deposit account number:

01-1945

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy or the original document.

Linda Dole

Name of Person Signing

Signature

07/27/98

Date

Total number of pages comprising cover sheet:

OMB No. 0651-0011(emp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

08/04/1998 SMITH 00000031 1511551 Commissioner of Patents and Trademarks  
 40.0Bk Assignments  
 01 FC:481 Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

TRADEMARK  
 REEL: 1764 FRAME: 0262

EXHIBIT A

REGISTERED U.S. TRADEMARKS

<u>REGISTRATION NO.</u>	<u>DATE</u>	<u>MARK</u>	<u>COUNTRY</u>
1,511,551	11/8/88	Varel	U.S.

PENDING U.S. TRADEMARK APPLICATIONS

<u>SERIAL NO.</u>	<u>FILING DATE</u>	<u>MARK</u>
	None	

HOU00:96828.1

TRADEMARK  
REEL: 1764 FRAME: 0263

**FIRST AMENDMENT TO  
COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT (TRADEMARKS)**

THIS FIRST AMENDMENT TO COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT (TRADEMARKS) (this "*Amendment*"), dated as of June 30, 1998, is between Varel International, Inc. (formerly known as Varel Manufacturing Company), a Delaware corporation (the "*Borrower*"), and The Governor and Company of the Bank of Scotland, as Administrative Agent for the Lenders (defined below) (in such capacity, the "*Administrative Agent*").

**PRELIMINARY STATEMENTS**

A. The Borrower and General Electric Capital Corporation, a New York corporation (the "*Original Lender*"), are parties to a Loan and Security Agreement dated as of January 16, 1997, as amended (said Loan and Security Agreement, as amended to the date hereof, the "*Original Loan Agreement*").

B. In connection with the Original Loan Agreement, the Borrower executed the Collateral Assignment and Security Agreement (Trademarks) dated as of January 16, 1997 (the "*Collateral Assignment (Trademarks)*"), in favor of the Original Lender as security for all of the Obligations (as defined in the Original Loan Agreement).

C. Pursuant to a Sale and Assignment of Notes and Liens dated as of the date hereof, the Original Lender assigned all of its rights and obligations under the Original Loan Agreement and the other Loan Documents (as defined in the Original Loan Agreement), including all of the security interests and other rights of the Original Lender pursuant to the Collateral

Assignment (Trademarks), to The Governor and Company of the Bank of Scotland (the "*Bank of Scotland*") and together with the other lenders from time to time party to the Amended Loan Agreement referred to below, collectively, the "*Lenders*").

D. Pursuant the certain Amended and Restated Loan, Guaranty and Security Agreement dated as of the date hereof (the "*Amended Loan Agreement*"), Oakbay B. V., a corporation organized under the laws of The Kingdom of The Netherlands (the "*Dutch Parent*"), Oakbay, Inc., a Delaware corporation (the "*Parent Guarantor*"), the Borrower and the Bank of Scotland, as Arranger, Facility Agent, Administrative Agent and the sole Lender, amended and restated the Original Loan Agreement to provide, *inter alia*, for an increase in the amount of credit that may be extended to the Borrower and to add the guaranty of the Parent Guarantor.

E. It is a condition precedent for the Administrative Agent and the other Lenders to enter into the Amended Loan Agreement for the Borrower to amend the Collateral Assignment (Trademarks) as provided herein. Accordingly, the Borrower and the Administrative Agent agree as follows:

## ARTICLE I

### Definitions; Interpretation

SECTION 1.01. Definitions. All capitalized terms defined in the Amended Loan Agreement and not otherwise defined herein shall have the same meanings herein as in the Amended Loan Agreement.

SECTION 1.02. Interpretation. (a) In this Amendment, unless a clear contrary intention appears:

- (i) the singular number includes the plural number and *vice versa*;

- (ii) reference to any gender includes each other gender;
- (iii) the words "*herein*," "*hereof*" and "*hereunder*" and other words of similar import refer to this Amendment as a whole and not to any particular Article, Section or other subdivision;
- (iv) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Amendment, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually, *provided* that nothing in this clause (iv) is intended to authorize any assignment not otherwise permitted by this Amendment;
- (v) except as expressly provided to the contrary herein, reference to any agreement, document or instrument (including this Amendment) means such agreement, document or instrument as amended, supplemented or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, and reference to any Note or other note includes any note issued pursuant hereto in extension or renewal thereof and in substitution or replacement therefor;
- (vi) unless the context indicates otherwise, reference to any Article or Section means such Article or Section hereof;
- (vii) the word "*including*" (and with correlative meaning "*include*") means including, without limiting the generality of any description preceding such term;
- (viii) with respect to the determination of any period of time, except as expressly provided to the contrary, the word "*from*" means "*from and including*" and the word "*to*" means "*to but excluding*"; and

(ix) reference to any law, rule or regulation means such as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

(b) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(c) No provision of this Amendment shall be interpreted or construed against any Person solely because that Person or its legal representative drafted such provision.

SECTION 2. Amendments to Collateral Assignment (Trademarks).

(a) All references to "*Loan Agreement*" in the Collateral Assignment (Trademarks) shall be deemed to refer to the Amended Loan Agreement.

(b) All references to "*Lender*" in paragraphs 1 and 3 of the Collateral Assignment (Trademarks) shall be deemed to refer to the Administrative Agent for the benefit of the Lenders.

(c) All references to "*Lender*" in paragraph 5 of the Collateral Agreement shall be deemed to refer to the Administrative Agent and the Lenders.

(d) All defined terms not otherwise defined in the Collateral Assignment (Trademarks) shall have the meanings set forth in the Amended Loan Agreement.

(e) Section 6 of the Collateral Assignment (Trademarks) is hereby amended and restated to read as follows:

6. THIS AGREEMENT AND THE SECURITY INTEREST GRANTED HEREBY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS (EXCEPT TO THE EXTENT THAT THE LAWS OF ANY OTHER JURISDICTION GOVERN THE PERFECTION AND PRIORITY OF THE SECURITY INTERESTS GRANTED HEREBY).

SECTION 3. Conditions to Effectiveness. This Amendment shall become effective when, and only when, the following conditions have been fulfilled:

- (a) the Borrower shall have executed a counterpart of this Amendment; and
- (b) the Administrative Agent shall have executed a counterpart of this Amendment and received counterparts of this Amendment executed by the Borrower.

SECTION 4. Reference to the Collateral Assignment (Trademarks). (a) Upon the effectiveness of this Amendment, each reference in the Collateral Assignment (Trademarks) to "*this Agreement*," "*hereunder*," "*herein*" or words of like import shall mean and be a reference to the Collateral Assignment (Trademarks) as amended and affected hereby.

(b) Upon the effectiveness of this Amendment, each reference in the Amended Loan Agreement and the other Loan Documents to "*the Collateral Assignment and Security Agreement (Trademarks)*" shall mean and be a reference to the Collateral Assignment (Trademarks), as amended and affected hereby.

(c) The Borrower acknowledges and ratifies the Collateral Assignment (Trademarks) as amended hereby, and agrees and acknowledges that all the terms thereof as amended hereby (i) are hereby brought forward for the benefit of the Administrative Agent and the Lenders and (ii) shall remain in full force and effect.

(d) In the event of any conflict or inconsistency between the provisions of the Amended Loan Agreement and the provisions of the Collateral Assignment (Trademarks) as amended hereby, the provisions of the Amended Loan Agreement shall control.

SECTION 5. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS AND APPLICABLE FEDERAL LAW AND SHALL BE

BINDING UPON THE BORROWER, THE LENDERS AND THE ADMINISTRATIVE AGENT  
AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

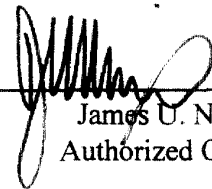
SECTION 6. Execution in Counterparts. This Amendment may be executed in any  
number of counterparts and by different parties hereto in separate counterparts, each of which when  
so executed shall be an original and all of which taken together shall constitute one and the same  
agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be  
executed by their respective officers thereunto duly authorized as of the date first above written.

Borrower:

**VAREL INTERNATIONAL, INC.**, a Delaware  
corporation

By:

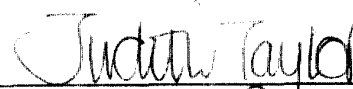


James U. Nixon  
Authorized Officer

Administrative Agent:

**THE GOVERNOR AND COMPANY OF THE  
BANK OF SCOTLAND, as Administrative Agent**

By:



Judith Taylor  
Associate Director of Structured Finance