

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM302974

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Lister-Petter Limited		08/24/1998	Limited Company: UNITED KINGDOM
RECEIVING PARTY DATA			
Name:	Filbuk 498 Limited		
Street Address:	Long Street, Dursley		
City:	Gloucestershire		
State/Country:	UNITED KINGDOM		
Postal Code:	GL11 4HS		
Entity Type:	Limited Company: UNITED KINGDOM		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	1582242	LISTER PETTER	
Registration Number:	1946231	LISTER PETTER	
CORRESPONDENCE DATA			
Fax Number:	8028627512		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	802-863-2375		
Email:	tmip@drm.com		
Correspondent Name:	Cathleen E. Stadecker, Esq.		
Address Line 1:	199 Main Street		
Address Line 4:	Burlington, VERMONT 05401		
ATTORNEY DOCKET NUMBER:	09689-043USG1		
NAME OF SUBMITTER:	Cathleen E. Stadecker		
SIGNATURE:	/Cathleen E. Stadecker/		
DATE SIGNED:	04/29/2014		
Total Attachments: 9			
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DATED 24th August 1998

(1) LISTER-PETTER LIMITED

(2) FILBUK 498 LIMITED

AGREEMENT FOR THE TRANSFER OF THE
DIESEL ENGINEERING BUSINESS
OF LISTER PETTER LIMITED

EVERSHEDS
SOLICITORS

Fitzalan House Fitzalan Road
Cardiff CF2 1XZ
Tel: 01222 471147 Fax: 01222 464347
(Ref: 1/SRB/RMF/224)

TRADEMARK
REEL: 005270 FRAME: 0296

THIS AGREEMENT is made the 24th day of August 1998

BETWEEN

- (1) **LISTER-PETTER LIMITED** (Company Number 49390) whose registered office is at Long Street, Dursley, Gloucestershire, GL11 4HS and whose name is in the process of being changed to "Cotec Limited" ("Lister"); and
- (2) **FILBUK 498 LIMITED** (Company Number 3526929) whose registered office is at Long Street, Dursley, Gloucestershire, GL11 4HS and whose name is in the process of being changed to "Lister-Petter Limited" ("Newco").

IT IS HEREBY AGREED as follows:-

1 Interpretation

In this Agreement the following expressions shall have the following meanings unless inconsistent with the context:-

<u>Expression</u>	<u>Meaning</u>
"Assets"	shall mean all property, undertaking, rights and assets of the Business (other than the Excluded Assets) including those specified in clause 2.
"the Business"	shall mean that part of the business of Lister which is concerned with the production, manufacture, supply and distribution of diesel engines and associated products, parts, accessories and services (including Lister's shareholdings in RA Lister Overseas Limited and Salister Diesels (South Africa) Pty Limited).
"Completion"	shall mean the completion of the transfer of the Assets in accordance with clause 5.
"Consideration"	shall mean the consideration payable by Newco to Lister in accordance with clause 3.1.
"Contracts"	shall mean all agreements or commitments whether conditional or unconditional and whether by deed, under hand, oral or otherwise, and any arrangements or understandings whether legally binding or not entered into by or on behalf of Lister in connection with the Business.

"Effective Date" shall mean 1 May 1998.

"Employees" shall mean all the employees of Lister employed in connection with the Business to whom the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply.

"Excluded Assets" shall mean the assets listed in Schedule 1.

"Goodwill" shall mean the goodwill of Lister in relation to the Business and all trade names associated with the Business together with the exclusive right for Newco or its assignee(s) to represent itself as carrying on the Business in succession to Lister.

"Intellectual Property Rights" shall mean all industrial and intellectual property rights used in respect of or relating to the Business subsisting in any part of the world including without limitation the United Kingdom and foreign patents, trade marks or trade names, service marks, designs, design rights, know-how and copyrights (in each case whether registered or not) and applications for the same and including any intellectual property licensed for use in the Business from third parties or by Lister to third parties.

"Liabilities" shall mean all debts and other liabilities (whether actual or contingent) of Lister arising from the operation of the Business prior to Completion.

"the Plant and Machinery" shall mean all the plant, equipment, machinery (whether fixed or loose), furniture, fixtures and fittings, motor vehicles and other chattels used by Lister in the Business.

"the Transfer Accounts" shall mean the accounts of the Business as at 31 April 1998 to be prepared by Ernst & Young and agreed by the parties (such agreement not to be unreasonably withheld or delayed).

"VAT" shall mean Value Added Tax.

"VATA" shall mean the Value Added Tax Act 1994.

2 Transfer of the Assets

Lister shall transfer to Newco with effect from the Effective Date all of its rights, interest and title to the Business and the Assets which shall include the following assets:-

- 2.1 the Plant and Machinery;
- 2.2 the full benefit of all Contracts (including contracts of employment) and pending Contracts of Lister in connection with the Business;
- 2.3 all stocks, materials and work in progress held by Lister in connection with the Business;
- 2.4 the Goodwill and Intellectual Property Rights;
- 2.5 all records, files, documents, plans, drawings, designs and specifications whether in written form or stored upon magnetic tape or disc which relate to the Business;
- 2.6 all the book and other debts owed to Lister, in each case, in connection with the Business; and
- 2.7 all claims and rights of Lister under warranties, conditions, guarantees, indemnities and insurance policies arising in connection with the Business.

3 Purchase Price

- 3.1 The consideration for the transfer of the Assets and the Business to Newco and shall be a sum equal to the aggregate of:-
 - 3.1.1 the value of the Assets (with the exception of the Goodwill) less the sum of the Liabilities as at the Transfer Date in each case as determined by reference to the Transfer Accounts; and
 - 3.1.2 the sum of £15,640,000 (fifteen million six hundred and forty thousand pounds) being the consideration attributable to the purchase of the Goodwill.
- 3.2 The Consideration shall be apportioned between the Assets in the manner set out in the Transfer Accounts.
- 3.3 The Consideration shall remain outstanding as an inter-company loan between Lister and Newco which loan shall not carry interest and shall be repayable (in whole or in part) upon demand by Lister.

4 Value Added Tax

- 4.1 All amounts expressed in this Agreement as being payable by Newco are

expressed exclusive of any VAT which may be chargeable.

- 4.2 The parties have applied under Section 43 of VATA to be treated as members of a group and intend that no VAT shall be chargeable on the transfer of the Business but in the event that the parties shall not be treated as being members of a group for the purposes of the said Section 43 for any reason whatsoever, the following provisions of this clause 4 shall have effect.
- 4.3 The parties intend that Section 49 of VATA and Article 5 of The Value Added Tax (Special Provisions) Order 1992 shall apply to the transfer of the Business and accordingly:-
- 4.3.1 Lister shall on Completion deliver to Newco all records of the Business referred to in Section 49 and shall not thereafter make any request to H.M. Customs & Excise for a direction under sub-section (1)(b) of that Section that such records shall be required to be preserved by Lister rather than Newco and Newco undertakes to preserve such records for such periods as may be required by law and to provide access to and copies of the same to Lister and its agents upon reasonable notice during normal business hours; and
- 4.3.2 without prejudice to the other provisions of this Agreement, Lister and Newco shall use all reasonable endeavours to secure that pursuant to the provisions referred to above the sale of the Business is treated as neither a supply of goods nor a supply of services for the purposes of VAT but as the transfer of a business as a going concern.
- 4.4 If H.M. Customs & Excise notify Lister that they do not agree that this transaction or any part of it falls within the said Section 49 and Article 5 then Lister will forthwith on receipt of such notification or on Completion (whichever is the later) issue to Newco appropriate VAT invoices and Newco will forthwith pay to Lister the VAT charged in addition to the Consideration.

5 Completion

The transfer of the Assets shall be completed following exchange of this Agreement whereupon Lister shall deliver to Newco such of the Assets as are capable of passing by delivery and as soon as reasonably practicable after exchange shall deliver to Newco all documents of title or ownership relating to them and do all things necessary to give to Newco the full benefit of them.

6 Employees

The parties acknowledge and agree that the transfer of the Assets from Lister to Newco is a "relevant transfer" within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981 and accordingly the contracts of employment between

Lister and the Employees will have effect after the Effective Date as if originally made between Newco and the Employees.

7

Further Assurances

- 7.1 At the expense of Newco Lister shall as and when required by Newco after Completion execute all assignments and do whatever else may be necessary to vest in Newco with effect from the Effective Date those Assets which are not capable of passing by delivery and to give the full benefit of them to Newco and insofar as the benefit (subject to the burden) of any of the Assets cannot be transferred by Lister to Newco except by way of an agreement or novation or with consent to the assignment from a third party:-
- 7.1.1 Lister shall use its best endeavours (with the co-operation of Newco) to procure such Assets are novated or assigned as aforesaid as soon as is reasonably practicable;
- 7.1.2 unless and until any such Assets shall be novated or assigned as aforesaid, Lister shall hold the benefit of such Assets upon trust for Newco absolutely and shall account to Newco accordingly in respect of any sums or any other benefits received by Lister in relation thereto;
- 7.1.3 Newco shall as Lister's agent perform all the obligations of Lister thereunder insofar as the same relate to a period after the Effective Date; and
- 7.1.4 unless and until any such assets shall be novated or assigned Lister shall act in accordance with the reasonable directions of Newco in all matters relating to such Assets for so long as Lister is required and authorised to do so by Newco.
- 7.2 Upon the request and at the expense of Newco Lister shall use all reasonable endeavours to obtain any licences, consents, permissions or authorities from a third party which are necessary to vest in Newco full right and title to and enjoyment of the Assets.
- 7.3 Lister will use its best endeavours to make available to Newco the benefit of all insurances effected by it in relation to the Assets and will notify the insurers of the interest of Newco in the Assets.

8

Liabilities

Newco agrees to assume responsibility for the Liabilities and to indemnify and keep Lister indemnified against any cost, claim, demand, expense, or other liability incurred by it as a result of any failure by Newco to discharge the Liabilities or any of them.

9 Books and Records

Lister shall be entitled to have reasonable access to all books of account covering the period up to Completion which relate to the Business or Assets for the purpose of preparing its tax returns and/or accounts.

10 General

- 10.1 This Agreement shall be binding on and shall enure for the benefit of each party's successors and assigns as the case may be.
- 10.2 Except for any obligation fully performed at Completion, each of the agreements, covenants, obligations, warranties, indemnities and undertakings contained in this Agreement shall continue in full force and effect notwithstanding Completion.
- 10.3 The parties agree that they shall do all such acts and things and execute all such documents as may be required on or subsequent to Completion to vest in Newco legal and beneficial ownership of the Assets and the Business in accordance with this Agreement and otherwise to comply with its terms.
- 10.4 The parties agree that they will execute all documentation of a taxation nature including any elections which are necessary or desirable in connection with the arrangements referred to in this Agreement.
- 10.5 The headings to the clauses of this Agreement and to the paragraphs of the Schedule shall not affect its construction.
- 10.6 The rights and remedies expressly provide for by this Agreement shall not exclude any rights or remedies provided by law.
- 10.7 This Agreement may be executed in any number of counterparts and by the parties on separate counterparts each of which so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same agreement.
- 10.8 This Agreement shall be governed and construed in all respects in accordance with the law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English and Welsh courts.

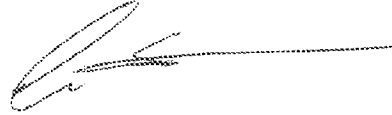
THIS DOCUMENT IS EXECUTED AS A DEED AND IS DELIVERED ON THE DATE STATED AT THE BEGINNING OF THIS DEED.

EXECUTED as a DEED by
LISTER-PETTER LIMITED acting by

Director



Director/Secretary

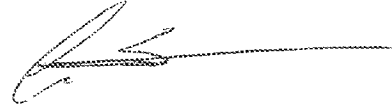


EXECUTED as a DEED by
FILBUK 498 LIMITED
acting by

Director



Director/Secretary



SCHEDULE 1

EXCLUDED ASSETS

- 1 All of the rights interests and title of Lister in the property occupied by the Business at Long Street, Dursley, Gloucestershire.
- 2 That part of the business of Lister which is concerned with the supply of information technology based services and hardware.