



**Registration of a Charge**

Company name: **ALUCRAFT SYSTEMS LIMITED**

Company number: **03667231**



X81MP5FM

Received for Electronic Filing: **20/03/2019**

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**Details of Charge**

Date of creation: **13/03/2019**

Charge code: **0366 7231 0003**

Persons entitled: **ELAGHMORE GP LLP**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**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: **AMARDEEP SHOKER**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3667231

Charge code: 0366 7231 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th March 2019 and created by ALUCRAFT SYSTEMS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th March 2019 .

Given at Companies House, Cardiff on 21st March 2019

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**

Dated *13<sup>th</sup> MARCH* 2019

(1) ALUCRAFT SYSTEMS LIMITED (as Chargor)

and

(2) ELAGHMORE GP LLP (as Security Trustee)

## **CHARGE OVER BANK ACCOUNTS**

This Deed is subject to a Priority Deed with (among others) The Governor and Company of The Bank of Ireland.

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THIS DEED is made on

13<sup>th</sup> MARCH

2019

ENGLAND & WALES - 12

BETWEEN

- (1) **ALUCRAFT SYSTEMS LIMITED** a company incorporated and registered under the laws of ~~Jersey~~ with registered number 03667231 whose registered office is at 4 Ninian Park, Ninian Way, Tamworth, England, B77 5ES (the "**Chargor**"); and
- (2) **ELAGHMORE GP LLP**, having its registered office at Elaghmore Partners LLP Ground Floor, 38 Hamilton Terrace, Leamington Spa, United Kingdom, CV32 4LY as Security Trustee for the Secured Parties (as defined below) on the terms and conditions set out in the Security Trust Deed (as defined below) (the "**Security Trustee**").

## 1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following words shall have the following meanings:

"Account"	means the accounts of the Chargor as detailed in Schedule 1 (and shall include any addition to or renewals, replacement, redesignation, subdivision, substitution or sub-account of that account) and all moneys from time to time standing to the credit (including any interest thereon) of such accounts
"Account Balance"	means in respect of any Account, all monies standing to the credit of that Account and: <ol style="list-style-type: none"><li>(a) all interest at any time accrued or accruing on such monies</li><li>(b) all investments at any time made out of such monies or Account and</li><li>(c) all rights to repayment of any of the same</li></ol>
"Affiliate"	means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company
"Authorisation"	has the meaning given to such term in the Senior Facility Agreement
"Charged Accounts"	means all bank accounts expressed to be charged pursuant to this Deed
"Debenture"	means the debenture dated on or around the date of this Deed and entered into by (among others) the Chargor in favour of the Security Trustee
"Event of Default"	has the meaning given to such term in the applicable Loan Note Instrument
"Holding Company"	has the meaning given in section 1159 of the Companies Act 2006 (or its equivalent)

<b>"Issuer"</b>	J Haw 1 Limited, a company limited by shares incorporated in England (registered no. 11404895) as Issuer under the Loan Note Instruments
<b>"Legal Reservations"</b>	has the meaning given to such term in the Senior Facility Agreement
<b>"Loan Note"</b>	has the meaning given to the terms "Loan Note" and/or "Note" in the applicable Loan Note Instrument
<b>"Loan Note Instruments"</b>	means each of (i) the loan note instrument dated 19 July 2018, pursuant to which the Issuer made available 8% secured loan notes up to an amount of £3,308,950 and (ii) the loan note instrument dated 19 July 2018, pursuant to which the Issuer made available 8% secured loan notes up to an amount of EUR1,151,500 together with the Notes, Loan Notes and all related documentation
<b>"Noteholders"</b>	has the meaning given to such term in the applicable Loan Note Instrument
<b>"Obligor"</b>	any member of the Group which provides security or guarantees for the benefit of the Secured Parties at any time in respect of the obligations of any Transaction Obligor under the Transaction Documents
<b>"Priority Deed"</b>	means the deed of priority dated on or about the date hereof and made between, among others, The Governor and Company of the Bank of Ireland (as Senior Creditor), the Obligors, JHAW 1 Limited as the parent and the Noteholders (as Junior Creditors)
<b>"Receiver"</b>	means a receiver and/or manager of any or all of the Chargor's Security Assets appointed by the Security Trustee under the Security
<b>"Secured Liabilities"</b>	means all monies from time to time due or owing and all other actual or contingent liabilities from time to time incurred by the Chargor to the Secured Parties pursuant to the Transaction Documents
<b>"Secured Parties"</b>	means the Security Trustee, Noteholders, any Receiver or Delegate from time to time
<b>"Security"</b>	means the Security Interests created or intended to be created by or pursuant to this Deed
<b>"Security Assets"</b>	means all the Chargor's assets from time to time the subject of the Security

<b>"Security Interest"</b>	means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation or any other agreement or arrangement having a similar effect
<b>"Security Period"</b>	has the meaning given to such term as defined in the Debenture
<b>"Security Trust Deed"</b>	means the security trust deed dated on or about the date hereof and made between the Noteholders and the Security Trustee
<b>"Senior Discharge Date"</b>	has the meaning given to that term in the Priority Deed
<b>"Senior Facility Agreement"</b>	means the facility agreement originally dated 19 July 2018 and entered into, among others,(1) JHAW 1 Limited as the parent, (2) JHAW Holdings Limited as borrower and (3) The Governor and Company of The Bank of Ireland and acceded to by (among others) the Chargor as guarantor, as amended from time to time
<b>"Senior Finance Documents"</b>	has the meaning given to the term "Finance Documents" in the Senior Facility Agreement
<b>"Senior Security Agreement"</b>	means the account charge dated 19 July 2018 and made between The Governor and Company of The Bank of Ireland and the Chargor;
<b>"Subordinated Creditor"</b>	means (a) a Transaction Obligor, (b) a Vendor (as defined in the Senior Facility Agreement) or (c ) any other person which becomes a Subordinated Creditor and/or enters into a subordination deed in accordance with terms agreed with the Security Trustee
<b>"Subsidiary"</b>	has the meaning given in section 1159 of the Companies Act 2006 (or its equivalent)
<b>"Transaction Documents"</b>	has the meaning given to such term in the Security Trust Deed and the term "Transaction Documents" includes, without limitation, the Loan Note Instruments, the Security Trust Deed and any other document entered into by any person, including the Issuer and a Transaction Obligor, creating or expressed to create any Security Interest over all or any part of its assets in respect of the obligations of all or any of the Issuer and/or the Transaction Obligors to the Secured Parties under or in connection with the Loan Note Instruments and related documents
<b>"Transaction Obligor"</b>	means an Obligor, the Issuer, the Chargor, each Subordinated Creditor (other than Nisiorco Limited and Elaghmore GP LLP) and each other person which provides security or guarantees for the benefit of the Secured Parties at any time in respect of the obligations of any Transaction Obligor under the Transaction Documents.



1.2 Capitalised terms not defined herein shall have the meaning given to them in the Senior Facility Agreement or in the Loan Note Instruments (whether defined expressly therein or by reference to another document) and shall be incorporated mutatis mutandis and for the purposes of this Deed only, a reference to "Lender" in any such terms and expressions in the Senior Facility Agreement shall be construed as a reference to the Secured Parties.

### 1.3 Construction

1.3.1 Unless a contrary indication appears, any reference in this Deed to:

- (a) "**assets**" includes present and future properties, revenues and rights of every description;
- (b) "**the Security Trustee**" shall be construed to include its successors in title, permitted assigns and permitted transferees;
- (c) a "**disposal**" includes a licence, transfer, sale or other disposal of any kind;
- (d) "**includes**" or "**including**" shall be read and construed as including the phrase "**without limitation**";
- (e) this "**Deed**" or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Chargor's obligations or provides for further advances);
- (f) a provision of law is a reference to that provision as amended or re-enacted; and
- (g) the singular includes the plural and vice versa.

1.3.2 When any provision of this Deed refers to an approval or consent by the Security Trustee that provision shall be construed so as to require that consent or approval to be given in writing.

1.3.3 References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed.

1.3.4 Where the Chargor includes two or more entities a reference to the Chargor shall mean to each of the entities severally as well as all of the entities jointly.

1.3.5 Where the Chargor is not a limited company, references to 'its' and 'it' shall be read and construed as references to 'his' and 'him' or 'her' as applicable.

1.3.6 Clause headings are for ease of reference only and shall not affect the construction of this Deed.

1.3.7 If the Security Trustee reasonably considers that an amount paid by the Chargor is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.3.8 To the extent that there is any conflict and/or contradictions and/or inconsistencies between the terms of this Deed and the terms of the Loan Note Instruments, the terms of the Loan Note Instruments shall prevail.

1.3.9 The signatory to this Deed acting for the account of the Chargor enters into this Deed solely in its capacity as an officer of the Chargor acting for the account of the Chargor

and not in any personal or other capacity. Accordingly all undertakings, representations and warranties are made for and on behalf of the Chargor.

1.3.10 This Deed is a "Transaction Security Document" within the meaning of the applicable Loan Note Instruments.

1.3.11 The Security Trustee holds the benefit of this Deed and this Security on trust for the Secured Parties under the terms and conditions of this Deed, the Security Trust Deed and the other Transaction Documents.

1.3.12 Second-ranking Security

All security created under this Deed does not affect the security created by the Senior Security Agreement.

- (a) Where this Deed purports to create a first ranking fixed security interest, that security interest will be a second ranking security interest ranking subject to the equivalent security interest created by the Senior Security Agreement until such time as the equivalent security interest created by the Senior Security Agreement ceases to have effect. All references in this Deed or any mortgage to "full title guarantee" shall be qualified by reference to the Senior Security Agreement.
- (b) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Senior Security Agreement and the same asset or right is expressed to be assigned again under this Deed, that second assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment if the relevant security interest created by the Senior Security Agreement ceases to have effect at a time when this Deed still has effect.
- (c) Where this Deed creates or purports to create any security interest or grants any right that is more extensive than an equivalent security interest or grants any right that is more extensive than an equivalent security interest or right created or purported to be created or granted by the Senior Security Agreement, such security interest or right shall be deemed to be no more extensive than the equivalent security interest or right created or purported to be created or granted by the Senior Security Agreement until such time as the equivalent security interest or right created or purported to be created or granted by the Senior Security Agreement ceases to have effect.

1.3.13 Priority Deed

- (a) The terms and conditions of this Deed and any mortgage are subject to the terms of the Priority Deed. The rights of the Security Trustee (as trustee for the Secured Parties) and the obligations of the Transaction Obligors in respect of this Deed, any mortgage and the Loan Note Instruments and shall be subject in all respects to the provisions of the Priority Deed.
- (b) The provisions of the Priority Deed will override this Deed and any mortgage to the extent that there is any inconsistency and, in particular, but without limitation, the payment by the Chargor of any amount shall not be made except to the extent permitted by the Priority Deed.
- (c) The amount of any interest or any payment by the Chargor that would be made under this Deed but for the provisions of this clause shall not be a debt due from the Chargor until the Senior Discharge Date and no default interest shall accrue in respect of any amount blocked by the application of the provisions of the Priority Deed.

#### **1.4 Third party rights**

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

#### **1.5 Delivery**

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this Deed shall take effect as a deed notwithstanding the fact that the Security Trustee may only execute this Deed under hand.

### **2. COVENANT TO PAY**

#### **2.1 Covenant to pay**

Subject to the terms of the Priority Deed, the Chargor shall pay and discharge each of the Secured Liabilities when the same fall due for payment.

#### **2.2 Further advances**

This Deed is made to secure any further advances or other facilities or other subscriptions for Loan Notes but it does not create any obligation on the Security Trustee to make any further advances or subscriptions or make other facilities available.

### **3. NATURE OF SECURITY**

#### **3.1 Trust**

If or to the extent that for any reason the assignment or charging of any Security Asset is prohibited, the Chargor shall:

3.1.1 hold it on trust for the Security Trustee as security for the payment and discharge of the Secured Liabilities; and

3.1.2 take such steps as the Security Trustee may require to remove the impediment to assignment or charging it.

### **4. SECURITY**

#### **4.1 Nature of security**

All Security and dispositions created or made by or pursuant to this Deed are created or made in favour of the Security Trustee with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the discharge of the Secured Liabilities.

#### **4.2 Charged accounts**

The Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by it, or in which it from time to time has an interest:

4.2.1 by way of first fixed charge, the Accounts and the Account Balances in respect of such Accounts, together with all addition to or renewals, replacement, redesignation, subdivision, substitution or sub-accounts of such accounts (in whatever currency) and all investments made out of the same and all rights, benefits and proceeds in respect of such accounts (including interest and rights to repayment of any monies standing to the credit of such accounts).

#### 4.3 **Notice of Security**

Subject to the terms of the Priority Deed, the Chargor must give notice of the grant of the Security to each institution with whom any Charged Accounts are held (which is not also the Security Trustee) in the form set out in Schedule 2 (*Form of notice of charge of bank accounts*) and it shall use its reasonable endeavours to procure that the recipient of each notice acknowledges it in writing.

### 5. **DEPOSIT CONDITIONS**

#### 5.1 **Non-assignability**

None of the Account Balances or any of the Charged Accounts and the rights and benefits relating thereto are capable of being assigned to any third party or being the subject of any Security Interest except with the prior written consent of the Security Trustee.

#### 5.2 **Terms of Deposit**

If there is any inconsistency between the terms on which all or any part of any Account Balance may have been deposited and any provision of this Deed, the provisions of this Deed shall prevail.

### 6. **GENERAL UNDERTAKINGS**

#### 6.1 **Negative pledge**

The Chargor shall not during the Security Period create or permit to subsist any Security Interest over any Security Asset without the consent of the Security Trustee, save as permitted under the Loan Note Instruments, the Priority Deed or, until the Senior Discharge Date, the Senior Finance Documents.

#### 6.2 **No withdrawals**

Following an Event of Default which is continuing, the Chargor shall not withdraw or attempt or be entitled to withdraw (or direct any transfer of) all or any part of any Account Balance without the prior written consent of the Security Trustee.

#### 6.3 **Representations**

The representations set out in clause 20 (*Representations*) of the Senior Facility Agreement shall, where applicable, be incorporated mutatis mutandis as if set out in full and shall be made in favour of the Security Trustee and the other Secured Parties.

### 7. **FURTHER ASSURANCE**

To the extent permitted by the Priority Deed, the Chargor shall at its own expense ensure any documents are executed and any acts and things are done which the Security Trustee may reasonably require from time to time for:

7.1 giving effect to, perfecting or protecting the Security;

7.2 facilitating the realisation of any Security Asset;

7.3 granting and perfecting new Security following any addition to or renewal, replacement, redesignation, subdivision, substitution or sub-account of any Account.

7.4 facilitating the exercise of all powers, authorities and discretions vested in the Security Trustee or in any Receiver; or

7.5 perfecting any Security over any assets acquired by the Chargor after the date of this Deed.

## **8. ENFORCEMENT**

### **8.1 Remedying defaults**

The Security Trustee or a Receiver may (but is not obliged to) take any action to remedy a failure by the Chargor to observe and perform the provisions of this Deed at the Chargor's cost.

### **8.2 Timing of enforcement**

8.2.1 The Secured Liabilities are deemed to have become due on the date of this Deed.

8.2.2 The Security shall become enforceable on the earlier of:

- (a) the date any Secured Party demands repayment of any of the Secured Liabilities;
- (b) the date an Event of Default occurs and is continuing; or
- (c) the Chargor's request.

8.2.3 Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this Deed.

### **8.3 Powers of the Security Trustee**

8.3.1 To the extent permitted by the terms of the Priority Deed, at any time after the Security becomes enforceable or if requested by the Chargor, the Security Trustee may without further notice (unless required by law):

- (a) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as the Chargor's administrator; and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver.

8.3.2 The Security Trustee is not entitled to appoint a Receiver in respect of any Security Assets which are subject to Security which (as created) was a floating charge solely by reason of a moratorium being obtained under Schedule A1 to the Insolvency Act 1986 or anything done with a view to obtaining such a moratorium.

### **8.4 No liability**

Neither the Secured Parties nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Security Assets for any loss on realisation or for any other default or omission. No exercise of the right in Clause 8.1 (*Remedying defaults*) shall render the Secured Parties or a Receiver a mortgagee in possession save for the gross negligence or wilful default of that person.

## **9. RECEIVER**

### **9.1 Removal and replacement**

The Security Trustee may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **9.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

### **9.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Trustee (or, failing such agreement, to be fixed by the Security Trustee) and section 109(6) of the Law of Property Act 1925 shall not apply.

### **9.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Security Trustee in relation to the Secured Liabilities shall be capable of being applied by the Security Trustee in discharge of the Secured Liabilities.

### **9.5 Chargor's agent**

Any Receiver shall be the Chargor's agent and the Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Secured Parties shall not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **10. POWERS OF RECEIVER**

### **10.1 General powers**

10.1.1 Any Receiver shall have:

- (a) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act but without the restrictions contained in sections 103 or 109(1) of that Act;
- (b) (whether or not he is an administrative receiver) all the powers which are listed in Schedule 1 of the Insolvency Act 1986; and
- (c) all powers which are conferred by any other law conferring power on receivers.

10.1.2 To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the Chargor's obligations under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003/3226) each Receiver and the Security Trustee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards that satisfaction of the Secured Liabilities.

10.1.3 For the purpose of Clause 10.1.2, the value of the financial collateral appropriated shall be such amount as the Receiver or Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

## 10.2 Additional powers

In addition to the powers referred to in Clause 10.1 (*General powers*), a Receiver shall have the following powers:

- 10.2.1 to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- 10.2.2 to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 10.2.3 to sell or concur in selling or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation:
  - (a) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
  - (b) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- 10.2.4 to carry out any sale or other disposal of all or any part of the Security Assets by conveying, transferring or assigning the same in the Chargor's name and, for that purpose, to enter into covenants and other contractual obligations in the Chargor's name and so as to bind the Chargor;
- 10.2.5 to take any such proceedings in the Chargor's name as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- 10.2.6 to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- 10.2.7 to form one or more subsidiaries of the Chargor and to transfer to any such subsidiary all or any part of the Security Assets; and
- 10.2.8 to:
  - (a) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (b) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (c) use the Chargor's name for any of the above purposes.

## 10.3 Limitation

- 10.3.1 The Security Trustee may in the instrument by which a Receiver is appointed limit the powers of the Receiver.
- 10.3.2 The Receiver shall be under no duty to the Chargor to exercise any power he may have and shall not incur any liability to the Chargor either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers.



## **11. APPROPRIATION OF RECEIPTS**

### **11.1 Application**

11.1.1 Until the Senior Discharge Date has occurred, all monies received or recovered by the Security Trustee or any Receiver or its Delegate pursuant to this Deed or powers conferred by it shall (subject to the claims of any person having prior rights thereto) be applied in accordance with the terms of the Priority Deed.

11.1.2 Subject to Clause 11.2 (*Suspense Account*), following the occurrence of the Senior Discharge Date, any monies received by the Security Trustee in respect of the Security (subject to the payment of any claims having priority to the Security, but in substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority:

- (a) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment;
- (b) in or towards payment or discharge of the Secured Liabilities; and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.

11.1.3 The Security Trustee may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in accordance with the terms of the Loan Note Instruments and Security Trust Deed. After the occurrence of an Event of Default which is continuing, the Security Trustee may override any appropriation made by the Chargor.

### **11.2 Suspense Account**

Any monies received by the Security Trustee or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Security Trustee considers prudent.

## **12. SET-OFF**

Subject to the terms of the Priority Deed, the Secured Parties may (but shall not be obliged to) set off any matured obligation which is due and payable by the Chargor and against any matured obligation owed by the Secured Parties to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.

## **13. NEW ACCOUNT**

If the Security Trustee receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Security Assets or their proceeds of sale, then the Security Trustee may open a new account for the Chargor. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Security Trustee for the Chargor's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

## **14. DELEGATION AND APPOINTMENT OF ATTORNEYS**

### **14.1 Delegation**

14.1.1 The Security Trustee may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney subject to clause 16.2 below) in and on any terms (including power to sub-delegate) which the Security Trustee thinks fit.



- 14.1.2 The Security Trustee shall not 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 of its delegates or sub-delegates other than gross negligence or wilful default.

## 14.2 Attorneys

- 14.2.1 After the occurrence of an Event of Default which is continuing, by way of security, the Chargor irrevocably appoints the Security Trustee, every Receiver and every delegate or sub-delegate appointed under Clause 14.1 (*Delegation*) separately to be its attorney on its behalf, in its name:

- (a) to execute and do any documents, acts and things which it is required to execute and do under this Deed or any other document relating to the Secured Liabilities; and
- (b) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed any documents relating to the Secured Liabilities or by law on the Security Trustee or any Receiver.

- 14.2.2 The Chargor ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 14.2 (*Attorneys*).

## 15. REDEMPTION OF PRIOR SECURITY INTERESTS

### 15.1 Redemption

Save in respect of the Senior Security Agreement for so long as the Senior Discharge Date has not occurred, the Security Trustee may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at the Chargor's cost.

### 15.2 Costs of redemption

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under Clause 15.1 (*Redemption*) shall be paid by the Chargor within 3 Business Days of demand.

## 16. RELEASES

### 16.1 Releases conditional

- 16.1.1 Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this Clause 16 (*Releases*), a **release**) made by the Secured Parties on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency.

- 16.1.2 If any avoidance, reduction, or clawback occurs or any order is made as referred to in Clause 16.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Secured Parties' right to enforce the Security in respect of the Secured Liabilities. As between the Chargor and the Secured Parties, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Security Trustee as security for the Secured Liabilities.

### 16.2 Retention

- 16.2.1 If and for so long as any assurance, security or payment as is mentioned in Clause 16.1 (*Releases conditional*) remains in the reasonable opinion of the Security Trustee susceptible of being avoided, reduced, clawed back or ordered to be repaid

under any law relating to liquidation, bankruptcy or insolvency, the Security Trustee may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.

16.2.2 If, at any time while all or part of the Security Trustee's rights under this Deed are so retained:

- (a) an application is made to a competent court for a winding-up order to be made in respect of the Chargor;
- (b) steps are taken to wind the Chargor up;
- (c) an application is made to a competent court for an administration order to be made in respect of the Chargor;
- (d) a notice of intention to appoint an administrator to the Chargor is filed at court; or
- (e) the appointment of an administrator to the Chargor takes effect then the Security Trustee may continue to retain all or part of its rights under this Deed for any further period as the Security Trustee may determine in its absolute discretion.

## **17. CONTINUING SECURITY**

### **17.1 Continuing security**

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding:

- 17.1.1 intermediate payment or discharge of the whole or part of the Secured Liabilities;
- 17.1.2 the Chargor's liquidation or other incapacity or any change in its constitution, name or style;
- 17.1.3 any change in the Security Trustee's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person; or
- 17.1.4 any other event, matter or thing.

### **17.2 Additional to other rights**

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Chargor or otherwise) in favour of the Secured Parties. Accordingly, the Chargor's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding:

- 17.2.1 the existence or invalidity of all or any of those rights; or
- 17.2.2 at any time, the Secured Parties exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights.

## **18. THIRD PARTY PROTECTION**

18.1 No purchaser, mortgagee or other person dealing with the Security Trustee or a Receiver shall be concerned:

- 18.1.1 to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged;
- 18.1.2 whether the power which the Security Trustee or Receiver is purporting to exercise has become exercisable; or
- 18.1.3 to see to the application of any money paid to the Security Trustee or to a Receiver.

**19. CALCULATIONS AND CERTIFICATES**

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document (i) must be supplied in sufficient detail for such certificate or determination to be verified with reasonable accuracy and (ii) is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**20. PARTIAL INVALIDITY**

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**21. REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

**22. AMENDMENTS AND WAIVERS**

Any provision of this Deed may be amended only if the Chargor and the Security Trustee agree in writing and any breach of this Deed may be waived before or after it occurs only if the Security Trustee so agrees in writing. A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

**23. TRANSFER AND CONFIDENTIALITY**

**23.1 Transfer**

- 23.1.1 The Secured Parties may assign and/or transfer its rights and obligations under this Deed.
- 23.1.2 The Chargor shall not assign any of its rights or transfer any of its obligations under this Deed.

**23.2 Confidentiality**

The Secured Parties may disclose to a potential assignee or to any person who may otherwise enter into contractual relations with the Secured Parties in relation to this Deed such information about the Chargor and this Deed as the Secured Parties consider appropriate.

**24. COUNTERPARTS**

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

## 25. NOTICES

### 25.1 Communications in writing

Any communication to be made under or in connection with the Transaction Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### 25.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

(a) in the case of the Chargor:

Address: Elaghmore GP LLP, Ground Floor, 38 Hamilton Terrace, Leamington Spa, CV32 4LY  
Athena Lodge, 15 Stephenstown Lawns, Twomilehouse, Naas, County Kildare  
Fax:  
Attention: Greg Koral / Aidan Williamson  
Email: [greg.koral@elaghmore.com](mailto:greg.koral@elaghmore.com), [aidan.williamson@alucraft.ie](mailto:aidan.williamson@alucraft.ie)

(b) in the case of the Security Trustee:

Address: Elaghmore GP LLP, Ground Floor, 38 Hamilton Terrace, Leamington Spa, CV32 4LY  
Athena Lodge, 15 Stephenstown Lawns, Twomilehouse, Naas, County Kildare  
Fax:  
Attention: Greg Koral / Aidan Williamson  
Email: [greg.koral@elaghmore.com](mailto:greg.koral@elaghmore.com), [aidan.williamson@alucraft.ie](mailto:aidan.williamson@alucraft.ie)

or any substitute address, fax number or department or officer as the Party may notify to the Security Trustee (or as the Security Trustee may notify to the Issuer if a change is made by the Security Trustee) by not less than five Business Days' notice.

### 25.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days' after being deposited in the post (postage prepaid) in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 25.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Security Trustee shall specify for this purpose).
- (c) Any communication or document made or delivered to the Issuer will be deemed to have been made or delivered to the Chargor.

### 25.4 Electronic communication

- (a) Any communication to be made between any two parties under or in connection with this Deed may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between the Chargor and the Security Trustee may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a party to the Security Trustee only if it is addressed in such a manner as the Security Trustee shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the party to whom the relevant communication is sent or made available has its address for the purpose of this Deed shall be deemed only to become effective on the following day.
- (e) Any reference in a Transaction Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 25.4.

## 26. THE SECURITY TRUSTEE AS TRUSTEE

- 26.1 This Deed is a Transaction Security Document and a Transaction Document. The Security Trustee is party to this Deed in its capacity as agent and trustee for and on behalf of itself and the Secured Parties pursuant to the terms and conditions of the Security Trust Deed and this Deed. As between the Security Trustee and the other Secured Parties the terms and conditions of the Security Trust Deed and Transaction Documents which apply to the Security Trustee under those agreements (save as varied hereby) also apply to it as Security Trustee under this Deed.
- 26.2 On the terms set out in the Security Trust Deed and this Deed, the Security Trustee declares itself trustee of the Security and other rights (including but not limited to the benefit of the covenants contained herein), titles and interests constituted by this Deed and of all monies, property and assets paid to the Security Trustee or to its order or held by the Security Trustee or its nominee or received or recovered by the Security Trustee or its nominee pursuant to or in connection with this Deed with effect from the date of this Deed to hold the same on trust for itself and each of the Secured Parties absolutely in accordance with their entitlements under the Loan Note Instruments and Security Trust Deed (save as may otherwise be agreed between the Security Trustee and the other Secured Parties from time to time).
- 26.3 All moneys received by the Security Trustee shall be held by it upon trust for itself and the Secured Parties according to their respective interests to apply the same in accordance with clause 11.1 (*Application*).
- 26.4 The rights, powers and discretions conferred on the Security Trustee by this Deed shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any other rights, powers and discretions which may be vested in the Security Trustee by the Security Trust Deed, Transaction Documents, law or otherwise.
- 26.5 The Chargor and the Secured Parties agree that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Deed, the Security Trust Deed or any other Transaction Document (and no others shall be implied).
- 26.6 Where there are any inconsistencies between the Trustee Act 1925 and the Trustee Act 2000 and the provisions of this Deed, the provisions of this Deed shall, to the extent allowed by law, prevail.

26.7 Any resignation or replacement of the Security Trustee or any appointment of a successor to the Security Trustee shall take effect in accordance with the provisions of the Security Trust Deed save that no resignation of the Security Trustee as trustee hereunder shall take effect unless at least one other trustee has been appointed.

26.8 At the end of the Security Period, the trusts set out in this Deed shall be wound up. At that time the Security Trustee shall, at the request of and at the sole cost of the Chargor, release, without recourse or warranty, all of the Security then held by it and the Security Trustee shall be released from its obligations under this Deed (save for those which arose prior to such winding-up).

27. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

28. **ENFORCEMENT**

28.1 **Jurisdiction**

28.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a "**Dispute**").

28.1.2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

28.1.3 This Clause 28.1 is for the benefit of the Security Trustee only. The Security Trustee may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS WHEREOF THE CHARGOR HAS EXECUTED THIS DEED AS A DEED** the year and date appearing on the first page of it.

## SCHEDULE 1

### ACCOUNTS

Account number	Account name	Account bank	Sort code
██████████	Alucraft Systems	Lloyds Bank plc	██████
██████████	Alucraft Systems	Lloyds Bank plc	██████

## SCHEDULE 2

### FORM OF NOTICE OF CHARGE OF BANK ACCOUNTS

To: [Account Bank]

Date: [ ]

Dear Sirs

We give you notice that we have charged (by way of fixed charge) to Elaghmore GP LLP as security trustee on behalf of the Secured Parties (the "**Security Trustee**") by way of security all of our rights, title and interest from time to time in the Accounts (as defined in the Schedule to this letter) each including without limitation all money at any time standing to the credit of the Accounts (whether in sterling or any other currency and whether in addition to or by way of renewal or replacement for any sums previously deposited or otherwise) together with all interest accruing from time to time in respect of such money (each an "**Account**" together the "**Accounts**").

With effect from the date of your receipt of this notice:

- (a) any existing payment instructions affecting the Accounts are to be terminated and all payments and communications in respect of the Accounts should be made to the Security Trustee or to its order;
- (b) all moneys standing to the credit of the Accounts are to be held to the order of the Security Trustee;
- (c) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Accounts belong to the Security Trustee;
- (d) we are permitted to withdraw or otherwise transfer the whole or any part of the money standing to the credit of the Account until you receive written notice from the Security Trustee that we may no longer do so; and
- (e) we irrevocably and unconditionally authorise and instruct you to disclose to the Security Trustee such information relating to the Accounts as the Security Trustee may from time to time request you to provide.

By countersigning this letter, you confirm that:

- (a) no fees or periodic charges are payable in respect of the Accounts and there are no restrictions on:
  - (i) the payment of the credit balance on the Accounts; or
  - (ii) the charging of the Accounts to the Security Trustee or any third party;
- (b) you have not received notice of any previous assignments of, charges over or trusts in respect of, the Accounts;
- (c) you will not, without the Security Trustee's consent:-
  - (i) exercise any right of combination, consolidation or set-off which you may have in respect of the Accounts; or
  - (ii) amend or vary any rights attaching to the Accounts;
- (e) save as specifically set out in this notice, you will act only in accordance with the instructions given by persons authorised by the Security Trustee;



- (f) you will provide the Security Trustee with such information relating to the Accounts as the Security Trustee may from time to time request you to provide;
- (g) save as specifically set out in this notice, you will not permit us to withdraw or otherwise transfer the whole or any part of the money standing to the credit of the Accounts without the Security Trustee's prior written consent; and
- (h) you will comply with the terms of this notice.

The authority and instructions contained in this notice cannot be revoked or varied by us without the prior written consent of the Security Trustee.

This notice, and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with English law.

Please accept this notice and your acknowledgement of the matters and instructions set out above by signing, dating and returning the enclosed copy of this letter to the Security Trustee at:

Address: Elaghmore GP LLP, Ground Floor, 38 Hamilton Terrace, Leamington Spa, CV32 4LY  
Athena Lodge, 15 Stephenstown Lawns, Twomilehouse, Naas, County Kildare  
Fax:  
Attention: Greg Koral / Aidan Williamson  
Email: [greg.koral@elaghmore.com](mailto:greg.koral@elaghmore.com), [aidan.williamson@alucraft.ie](mailto:aidan.williamson@alucraft.ie)

Yours faithfully,

for and on behalf of  
[INSERT CHARGOR'S DETAILS]

**Acknowledged:**

.....  
For and on behalf of  
[INSERT ACCOUNT BANK'S DETAILS]

## SCHEDULE

### ACCOUNTS

Account number	Account name	Account bank	Sort code

EXECUTION PAGE

**THE CHARGOR**

Executed as a deed by )  
**ALUCRAFT SYSTEMS LIMITED** acting by ) .....  
a director in the presence of ) Director  
)

Signature of witness

Name ADAM JAMES CAREY

Address 88 MANOVAR STREET  
DUBLIN 2.

Address:

Fax No:

Attention:

**THE SECURITY TRUSTEE**

Executed as a deed by **ELAGHMORE GP LLP**  
acting by **ELAGHMORE CAPITAL LIMITED, MEMBER**  
**AND GREGORY KORAL**  
duly authorised by **ELAGHMORE CAPITAL LIMITED**

to sign on its behalf as member of **ELAGHMORE GP LLP**, in the presence of:

On behalf of Member

[SIGNATURE OF WITNESS]

Adam James Carey

[NAME OF WITNESS [IN BLOCK CAPITALS]]

88 MANOVAR STREET, D2

[ADDRESS OF WITNESS]

TRAINEE SOLICITOR

[OCCUPATION OF WITNESS]