



Registration of a Charge

Company name: **ELEQTRA LIMITED**

Company number: **05390107**

Received for Electronic Filing: **25/02/2021**



X9Z1VWCD

Details of Charge

Date of creation: **04/02/2021**

Charge code: **0539 0107 0003**

Persons entitled: **GMG TRUST LIMITED**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **NATASHA BATSON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5390107

Charge code: 0539 0107 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th February 2021 and created by ELEQTRA LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th February 2021 .

Given at Companies House, Cardiff on 26th February 2021

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



Execution Version

THE REPUBLIC OF UGANDA

THE COMPANIES ACT NO. 1 OF 2012

THE SECURITY INTEREST IN MOVABLE PROPERTY ACT, 2019

CHARGE OVER SHARES

ELEQTRA LIMITED
(as Chargor)

and

GMG TRUST LTD
(as Security Trustee)

and

KALANGALA INFRASTRUCTURE SERVICES LIMITED
(as Issuer)

Certified true copy of the
Original presented to me

Date: 23/2/21

NOAH EDWIN MWESIGWA
LLB, (HONS). Dip. LP (LDC)
ADVOCATE & COMMISSIONER FOR OATHS
P. O. BOX 3213, KAMPALA

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Printing Bar Codes

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Deed dated 04/Feb/2021

SIGNATORY

Chargor eleQtra Limited, a private company incorporated under the laws of England and Wales with registration number 5390107, having its registered office at 55 Ludgate Hill, London EC4M 7JW United Kingdom (**eleQtra**)

SUMMARY

Chargor eleQtra

Chargee GMG Trust Ltd, as security trustee for the Finance Parties from time to time

Charged Assets Certain shares of the Chargor from time to time, being twenty point zero nine one percent (20.091%) of the ordinary shares and twenty point zero nine one per cent (20.091%) of the convertible preference shares in the capital of Kalangala Infrastructure Services Limited, a company incorporated in Uganda with company number 80570 and registered office at Floor 4 Acacia Place, Plot 6 Acacia Avenue, Kololo, PO Box 35501, Kampala, Uganda (the **Issuer**)

Secured Obligations The Obligations of the Issuer under the Note Transaction Documents, which include the Note Issuance Deed dated 31 December 2011 between, amongst others, the Issuer and the Security Trustee (as amended (however fundamentally, including with respect to changes in interest rates and repayment dates) or replaced from time to time)

Secured Amount USD 6,840,000.

Type of security fixed charge

Law Ugandan law

IT IS AGREED as follows:

Interpretation

1. Definitions and interpretation

Definitions

1.1. In this Deed:

Charged Assets means those assets which are from time to time the subject of clause 2.2

Chargor means eleQtra

Companies Act means the Companies Act (No.1 of 2012)

Default Rate means the rate specified in clause 12.3 of the Note Issuance Deed

Disposal means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Finance Party Security and Permitted Security

Dividends, in relation to any Share, means:

- 1.1.1. dividends and distributions of any kind and any other sum received or receivable in respect of that Share;
- 1.1.2. shares or other Rights accruing or offered by way of redemption, bonus, option or otherwise in respect of that Share;
- 1.1.3. allotments, offers and rights accruing or offered in respect of that Share; and
- 1.1.4. any other Rights attaching to, deriving from or exercisable by virtue of the ownership of, that Share

Enforcement Time means any time at which an Event of Default has occurred and is continuing

Finance Party Security means the Security created by this Deed and any other existing or future Security granted by the Chargor to the Security Trustee to secure the payment and discharge of Secured Obligations

Finance Party Security Document means a document creating or evidencing Finance Party Security

Insolvency Event, in relation to a person, means:

- 1.1.1. the dissolution, liquidation, provisional liquidation, receivership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- 1.1.2. any analogous or similar procedure in any jurisdiction other than Uganda; or
- 1.1.3. any other form of procedure relating to insolvency, reorganisation or dissolution in any jurisdiction

Note Issuance Deed means the note issuance deed dated 31 December 2011 between, amongst others, the Issuer and the Security Trustee, pursuant to which the Noteholders agreed to grant the Issuer a note issuance facility for the purpose of financing the Project, as it may from time to time be amended, restated, novated or replaced (however fundamentally, including by an increase of any size in the amount of the facilities made available under it, the alteration of the nature, purpose or period of those facilities or the change of its parties)

Noteholders means the persons defined as such in the Note Issuance Deed

Obligations, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- 1.1.1. to pay money or to perform (or not to perform) any other act;
- 1.1.2. express or implied;
- 1.1.3. present, future or contingent;
- 1.1.4. joint or several;
- 1.1.5. incurred as a principal or surety or in any other manner; or
- 1.1.6. originally owing to the person claiming performance or acquired by that person from someone else

Officer means, in relation to a person, any officer, employee or agent of that person

Receiver and Manager means one or more receivers and managers appointed, or to be appointed, under this Deed

Secured Obligations means the Obligations of the Issuer under the Note Transaction Documents, which include the Note Issuance Deed dated 31 December 2011 between, amongst others, the Issuer and the Security Trustee (as amended (however fundamentally, including with respect to changes in interest rates and repayment dates) or replaced from time to time)

Security Trustee means GMG Trust Ltd, a company registered under the laws of the Republic of Mauritius with registration number C07041427, or any other person appointed as security trustee for the Finance Parties under the Note Transaction Documents

Shares means:

- 1.1.1. the shares described in Schedule 2 (*Shares*);
- 1.1.2. any other shares in the capital of the Issuer which are beneficially owned by the Chargor; and
- 1.1.3. any shares in the Issuer acquired by the Chargor after the date of this Deed.

Interpretation

- 1.2. In this Deed:

- 1.2.1. the table of contents, the summary and the headings are inserted for convenience only and do not affect the interpretation of this Deed;
- 1.2.2. references to clauses and schedules are to clauses of, and schedules to, this Deed;
- 1.2.3. references to the Note Issuance Deed, any Note Transaction Document or any other document are to that document as from time to time amended, restated, novated or replaced, however fundamentally;
- 1.2.4. references to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity;
- 1.2.5. references to a person include its successors in title, permitted assignees and permitted transferees;
- 1.2.6. words importing the plural include the singular and vice versa; and
- 1.2.7. references to any enactment include that enactment as amended or re-enacted; and, if an enactment is amended, any provision of this Deed which refers to that enactment will be amended in such manner as the Security Trustee, after consultation with the Chargor, determines to be necessary in order to preserve the intended effect of this Deed.
- 1.3. Where this Deed imposes an obligation on the Chargor to do something if required or requested by the Security Trustee, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.4. It is intended that this document takes effect as a deed even though the Security Trustee may only execute it under hand.
- 1.5. This Deed may be executed in counterparts.
- 1.6. A Default is continuing if it has not been waived or remedied to the satisfaction of the Majority Noteholders in accordance with the Note Issuance Deed.
- 1.7. Each category of shares described in the definition of "Shares" in clause 1.1 will be construed as separate from each other category.

Incorporation of the Note Issuance Deed definitions

- 1.8. In this Deed, unless otherwise defined in this Deed, words and expressions defined in the Note Issuance Deed and used in this Deed shall have the same meaning where used in this Deed.

Third party rights

- 1.9. The Rights conferred on each Receiver and Manager and on each Officer of the Security Trustee or a Receiver and Manager under clause 12 (*Expenses, liability and indemnity*) are enforceable by each of them.
- 1.10. No other term of this Deed is enforceable by anyone who is not a party to this Deed.

The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting the Rights of a Receiver and Manager or of an Officer of the Security Trustee or a Receiver and Manager under this Deed without its consent, during an Enforcement Time to the extent a Receiver and Manager or Officer of the Security Trustee has been appointed in which case, the consent of that party will also be required.

Security

2. Charge

- 2.1. The charges contained in this clause 2:
- 2.1.1. are given to the Security Trustee as trustee for the Finance Parties;
 - 2.1.2. secure the payment and discharge of the Secured Obligations; and
 - 2.1.3. are given with full title guarantee.
- 2.2. The Chargor charges, by way of first fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in:
- 2.2.1. the Shares;
 - 2.2.2. any Rights accruing to, derived from or otherwise connected with the Shares (including Dividends and proceeds of Disposal); and
 - 2.2.3. any warrants, options and other Rights to subscribe for or otherwise acquire Shares.

3. Restrictions

- 3.1. The Chargor will ensure that the restrictions contained in this clause 3 are complied with unless the Security Trustee agrees to the contrary.
- 3.2. No Security will exist over, or in relation to, any Charged Asset other than Finance Party Security.
- 3.3. There will be no Disposal of any Charged Asset except as otherwise expressly permitted under the Note Issuance Deed.

4. Perfection

General requirements

- 4.1. The Chargor will create all such Finance Party Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, or otherwise), deposit all such documents and do all such other things as the Security Trustee may require from time to time in order to:
 - 4.1.1. ensure that it has an effective first-ranking fixed charge over Charged Assets; and
 - 4.1.2. during an Enforcement Time, facilitate the enforcement of the Finance Party Security relating to the Charged Assets, or the realisation of the Charged Assets or the exercise of any Rights held by the Security Trustee or any Receiver and Manager under or in connection with the Finance Party Security.
- 4.2. Notwithstanding Clause 4.1, the Chargee shall be responsible for the registration of the Finance Party Security with the Security Interest in Movable Property registry.
- 4.3. The scope of clause 4.1 is not limited by the specific provisions of the rest of this clause 4 or by any other provision of the Finance Party Security Documents.

Specific requirements

- 4.4. The Chargor will:
 - 4.4.1. on the date of this Deed (or, if it acquires the Shares later, as soon as practicable after it does so), deposit with the Security Trustee:
 - 4.4.1.1. all certificates or other documents of title to the Shares and share transfer forms for them, executed in blank by the Chargor;

- 4.4.1.2. all forms to be submitted to Companies Registry to register the resignation of directors of the Issuer, to the extent within its power, executed in blank by the directors; and
- 4.4.1.3. an irrevocable proxy and power of attorney in respect of the Shares in favour of the Security Trustee to enable the Security Trustee to vest the same in the Security Trustee or in any purchaser with the intent that the Security Trustee may, at any time during an Enforcement Time and without notice to the Chargor, present such transfers duly completed for registration;
- 4.4.2. if required to do so by the Security Trustee (and to the extent that the Chargor is legally able to do so) amend the articles of association of the Issuer in the manner reasonably required by the Security Trustee (and procure that the Issuer takes, or omits to take, all such other steps as the Security Trustee may require) in order to enable it to enforce its security without restriction; and
- 4.4.3. if required to do so by the Security Trustee at any time during an Enforcement Time, procure that the Security Trustee or its nominee becomes registered as the legal owner of the Shares.

Notification

- 4.5. If, after the date of this Deed, the Chargor acquires or agrees to acquire any Shares, it will notify the Security Trustee as soon as reasonably practicable and will provide it with such information about the acquisition as the Security Trustee may reasonably require.

Subsequent Security

- 4.6. If a Finance Party receives notice that any Security has been created over Charged Assets, that Finance Party will be treated as if it had immediately opened a new account for the Chargor, and all payments received by that Finance Party from the Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the Chargor to that Finance Party

Enforcement

5. Enforcement

Time for enforcement

- 5.1. The Security Trustee may enforce the Finance Party Security constituted by this Deed at any time during an Enforcement Time or if the Chargor requests it to do so, provided that once the Security Trustee has validly commenced enforcement of the Finance Party Security, the Security Trustee shall not be obliged to cease such proceedings unless it determines otherwise.

Methods of enforcement

- 5.2. Subject to Clause 5.1, the Security Trustee may enforce the Finance Party Security constituted by this Deed by:
- 5.2.1. becoming the registered holder of the Charged Assets, selling the Charged Assets or otherwise receiving the benefit of the Charged Assets in any way it may decide; or
 - 5.2.2. appointing a Receiver and Manager of all or any part of the Charged Assets.
- 5.3. A Receiver and Manager must be appointed by an instrument in writing, and otherwise in accordance with the Companies Act.
- 5.4. The appointment of a Receiver and Manager may be made subject to such limitations as are specified by the Security Trustee in the appointment.
- 5.5. If more than one person is appointed as a Receiver and Manager, each person will have power to act independently of any other, except to the extent that the Security Trustee may specify to the contrary in the appointment.
- 5.6. The Security Trustee may remove or replace any Receiver and Manager.

Powers on enforcement

- 5.7. The Security Trustee, and any Receiver and Manager, will have the following powers in respect of the Charged Assets:
- 5.7.1. the powers given to a Receiver and Manager by the Companies Act; and
 - 5.7.2. the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor themselves could have done, or omitted to do, if the Charged Assets were not the subject of the Finance Party Security and the Chargor were not in insolvency proceedings.

- 5.8. Except to the extent provided by law, none of the powers described in this clause 5 will be affected by an Insolvency Event in relation to the Chargor.

Status and remuneration of Receiver and Manager

- 5.9. A Receiver and Manager will be the agent of the Chargor. He will have no authority to act as agent for the Security Trustee, even in the liquidation of the Chargor.
- 5.10. The Security Trustee, acting reasonably, may from time to time determine the remuneration of any Receiver and Manager provided that the Issuer shall pay documented costs and expenses of any one single Receiver or Manager.

Third Parties

- 5.11. A person dealing with the Security Trustee or with a Receiver and Manager is entitled to assume, unless it has actual knowledge to the contrary, that:
- 5.11.1. those persons have the power to do those things which they are purporting to do; and
 - 5.11.2. they are exercising their powers properly

6. Application of Proceeds

All money received by the Security Trustee or a Receiver and Manager under or in connection with the Note Transaction Documents shall be dealt with in accordance with the provisions of the Security Trust and Intercreditor Deed

Representations and undertakings

7. Representations

- 7.1. The Chargor hereby represents and warrants to the Security Trustee as follows as at the date of this Deed:
- 7.1.1. it is a company duly incorporated and validly existing under the laws of England and Wales;
 - 7.1.2. it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by it;
 - 7.1.3. the entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:
 - 7.1.3.1. any Applicable Law;

- 7.1.3.2. its constitutional documents; or
- 7.1.3.3. any agreement or instrument binding upon it or any of the Charged Assets;
- 7.1.4. it is not aware of any fact, event or circumstance that could result in a Material Adverse Effect that has not been disclosed to the Original Noteholders prior to the date hereof, and all such facts concerning the business and affairs of the Issuer, which might be material for disclosure to the Original Noteholders, have been disclosed to the Original Noteholders in writing;
- 7.1.5. the Issuer has no material liabilities other than those disclosed in audited financial statements for the financial years ended 31 December 2017, audited financial statements for the financial year ended 31 December 2018 and audited financial statements for the financial year ended 31 December 2019;
- 7.1.6. except as disclosed by the Issuer in accordance with the Note Issuance Deed or as disclosed by the Issuer in Schedule 3 (*Disclosures*), no litigation, arbitration or administrative proceedings or investigation of or before any court, arbitral body or agency have been started or (to the best of the Chargor's knowledge and belief having made reasonable due and careful enquiry) threatened against the Issuer (other than litigation, arbitration or administrative proceedings or investigations that involve amounts of less than twenty five thousand Dollars (\$25,000) or are frivolous or vexatious in nature and would not result in a Material Adverse Effect);
- 7.1.7. the Issuer's only activity since its formation has been the development, construction, ownership, operation, maintenance and financing of the Project and such other ancillary activities associated with the foregoing, and the Issuer has no liabilities of any nature, except as disclosed to the Original Noteholders pursuant to paragraph 7.1.5 of this clause;
- 7.1.8. all projections or Assumptions regarding future events in relation to the Financial Model, which have been presented or delivered to the Original Noteholders, have been prepared in good faith, have been carefully considered and were based on reasonable suppositions at the time said projections and Assumptions were prepared in accordance with clause 20.1 (*Procedure for determining Assumptions*) of the Note Issuance Deed;
- 7.1.9. it has not breached any Applicable Laws in any material respect, and it has not breached any Anti-Money Laundering laws, Corrupt Practices Laws and Anti-terrorism Laws, in each case to the extent that such Applicable Laws apply to the Chargor; and

7.1.10. copies of all Project Documents have been delivered by the Issuer to the Security Trustee, and such copies are complete and accurate and have not been amended or modified by any agreements, written or oral.

7.2. Each representation and warranty in this Deed shall be construed as a separate and independent representation and warranty and shall not be governed, limited or restricted by reference or inference from any other term of this Deed or any other representation or warranty.

8. Limitation

8.1. Subject to clause 8.2, the Chargor shall indemnify the Original Noteholders from and against the loss of shares relating to, or arising directly or indirectly in any manner or for any cause or reason whatsoever from the breach of any representation, warranty or undertaking made herein by the Chargor.

8.2. The liability of the Chargor in respect of any claim or indemnity under this Deed shall be limited to the Charged Assets.

9. Undertakings

9.1. The Chargor will promptly pay all calls, instalments or other payments which from time to time become due in respect of any of its Shares, and the Security Trustee will not, except in the event of gross negligence, fraud or misconduct, incur any liability in respect of them.

9.2. The Chargor will not permit the Issuer to:

9.2.1. cancel, increase, create, issue or put under option (i) any share capital or (ii) any loan capital convertible into shares; or

9.2.2. make any alteration to, grant any rights in relation to or otherwise re-organise, purchase or reduce its share capital or reserves in any way,

in each case, without the prior written consent of the Security Trustee other than as permitted under the Subscription Agreements and Project Documents in accordance with the Note Transaction Documents.

9.3. Subject to any applicable provisions of Ugandan law, the Chargor will not convene a meeting of the Issuer with a view to passing a resolution that the Issuer be wound up and the Chargor will not vote to pass any such resolution at any meeting of the Issuer.

9.4. The Chargor will not take any steps which would negatively impact the value and marketability of the Charged Assets. For the avoidance of doubt this undertaking does not affect the

Chargor's right to exercise any rights it may have under any Project Document or Subscription Agreement to which it is a party.

- 9.5. The Chargor will notify the Security Trustee as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of the Security Trustee under the Finance Party Security. Those matters include a claim by any person to an interest in a Charged Asset.
- 9.6. The Chargor will provide to the Security Trustee:
 - 9.6.1. such information about the Charged Assets;
 - 9.6.2. such information about the extent to which it has complied with its obligations under this Deed; and
 - 9.6.3. copies of such documents which create, evidence or relate to its Charged Assets, as the Security Trustee may from time to time reasonably request.
- 9.7. To the extent within its power, the Chargor will procure that the directors of the Issuer duly approve and register all transfers of the Charged Assets, from time to time, lodged with them by or on behalf of the Security Trustee.
- 9.8. The Finance Parties may exchange between themselves any information relating to the Chargor.
- 9.9. If the Chargor does not comply with its obligations under this Deed, the Security Trustee may do so on the Chargor's behalf on such basis as the Security Trustee may reasonably decide. The Issuer will indemnify the Security Trustee on demand against the amount certified by the Security Trustee to be the cost, loss or liability suffered by it as a result of doing so.
- 9.10. The Issuer shall promptly notify the Chargor of any Event of Default that is continuing under the Note Issuance Deed.

Miscellaneous

10. Duration of the security

- 10.1. The Obligations of the Chargor under this Deed and the Finance Party Security will continue until the Secured Obligations have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.
- 10.2. If as a result of an Insolvency Event the Charged Assets are converted into cash before the Obligations of the Chargor under this Deed have been discharged, the Security Trustee will be entitled to recover the value or amount of the Charged Assets from the Chargor.

11. **Rights during an Enforcement Time**

During an Enforcement Time (and also once the Finance Party Security is being enforced), the Security Trustee will be entitled to receive all distributions in respect of the Shares and the Dividends for application in accordance with clause 6 (*Application of proceeds*).

- 11.1. During an Enforcement Time (and also once the Finance Party Security is being enforced), but only upon written notice to the Chargor, the Security Trustee will be entitled to exercise all voting and other Rights in respect of the Shares and the Dividends.
- 11.2. To the extent that the holder of those Shares is not the person entitled to receive those distributions and exercise those Rights, the holder will pay the distributions to the person entitled to them and will exercise those Rights in accordance with the reasonable requirements of the person entitled to exercise them.

12. **Expenses, liability and indemnity**

- 12.1. The Issuer will, on demand, pay all legal and other costs and expenses (including any stamp duty, registration or other similar taxes) reasonably incurred and documented by the Security Trustee or by any Receiver and Manager in connection with the Finance Party Security constituted by this Deed in accordance with the Note Issuance Deed, the Security Trust and Intercreditor Deed and any Fee Letters.
- 12.2. Neither the Security Trustee nor a Receiver and Manager nor any of their Officers will be in anyway liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or the Finance Party Security, except to the extent caused by its own negligence or wilful misconduct.

13. **Waiver of defences**

Subject to clause 10.1, the Obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to the Security Trustee), including:

- 13.1. any time, waiver or consent granted to, or composition with, the Issuer or any other person;
- 13.2. the release of the Issuer or any other person;
- 13.3. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Issuer or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- 13.4. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Issuer or any other person;
- 13.5. any amendment (however fundamental) or replacement of a Note Transaction Document or any other document or security;
- 13.6. any unenforceability, illegality or invalidity of any obligation of any person under any Note Transaction Document or any other document or security; or
- 13.7. any Insolvency Event.

14. **Immediate recourse**

The Chargor waives any right it may have of first requiring the Finance Parties (or any trustee or agent on their behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Note Transaction Document to the contrary.

15. **Appropriations**

Until the Secured Obligations have been irrevocably and unconditionally discharged in full, any Finance Party (or any trustee or agent on its behalf) or a Receiver and Manager may refrain from applying or enforcing any other money, security or Rights held or received by it (or any trustee or agent on their behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Chargor will not be entitled to the benefit of the same.

16. **Deferral of Chargor's rights**

16.1. During an Enforcement Time, unless the Security Trustee otherwise directs, the Chargor will not exercise any Rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Note Transaction Documents or by reason of any amount being payable, or liability arising, under this Deed:

- 16.1.1. to be indemnified or reimbursed by the Issuer;
- 16.1.2. to claim any contribution from any other obligor in relation to the Issuer's obligations under the Note Transaction Documents;
- 16.1.3. to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Note Transaction Documents or of any other guarantee or security taken under, or in connection with, the Note Transaction Documents by the Finance Parties;

- 16.1.4. to bring legal or other proceedings for an order requiring the Issuer to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed;
 - 16.1.5. to exercise any right of set-off against the Issuer; and/or
 - 16.1.6. to claim or prove as a creditor of the Issuer in competition with the Finance Parties.
- 16.2. If the Chargor receives any benefit, payment or distribution in relation to such Rights which the Security Trustee informs the Chargor is contrary to the provisions of the Note Issuance Deed (and such benefit, payment or distribution is contrary to such provisions), it will promptly pay an equal amount to the Security Trustee for application in accordance with this Deed.
- 16.3. Clauses 16.1 and 16.2 only apply until all the Secured Obligations have been irrevocably and unconditionally discharged in full.
- 16.4. This Deed is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Finance Parties.

17. Remedies

- 17.1. The Rights created by this Deed are in addition to any other Rights of the Finance Parties against the Chargor or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.
- 17.2. No failure by the Security Trustee to exercise any Right under this Deed will operate as a waiver of that Right. Nor will a single or partial exercise of a Right by a Finance Party preclude its further exercise.
- 17.3. If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.

18. Power of attorney

The Chargor, by way of security, irrevocably appoints each of the Security Trustee and any Receiver and Manager severally to be its attorney:

- 18.1. to do anything which the Chargor is obliged to do under the Finance Party Security Documents; and

- 18.2. to exercise any of the Rights conferred on the attorney by the Finance Party Security Documents or by law.

19. The Security Trustee

- 19.1. The Security Trustee may be replaced by a successor in accordance with the Security Trust and Intercreditor Deed.
- 19.2. On the date of its appointment, the successor Security Trustee will assume all the Rights and Obligations of the retiring Security Trustee. However, this does not apply to any Obligations of the retiring Security Trustee which arise out of its acts or omissions as Security Trustee before the appointment of the successor, in respect of which the retiring Security Trustee will continue to have the Obligations imposed by, and the Rights contained in, this Deed, the Note Issuance Deed and the Security Trust and Intercreditor Deed.
- 19.3. The retiring Security Trustee will, at the Issuer's expense, provide its successor with copies of those of its records as Security Trustee as its successor properly requires to perform its functions as Security Trustee.

20. Notices

Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and unless otherwise stated, may be made by fax, letter or email.

20.1. Addresses

The address, fax number or email address (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with the Note Transaction Documents is as set out in Schedule 1 (*Initial administrative details of the parties*), or any substitute address, fax number, email address or department or officer as that party may from time to time notify to the other parties by not less than five (5) Business Days' notice.

20.2. Delivery

- 20.2.1. Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

if by way of fax when received in legible form;

- 20.2.1.1. if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage and

international courier fees prepaid in an envelope addressed to it at that address; or

- 20.2.1.2. if by way of email, upon the earlier of (i) the email being received in legible form by the recipient and (ii) a delivery receipt is received by the sender confirming that such email has been delivered to the recipient's correct email address,

and, if a particular department or officer is specified as part of its address details provided under clause 20.2 (*Addresses*), if addressed to that department or officer.

- 20.2.2. Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee, respectively and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below (or any substitute department or officer as the Security Trustee, respectively, shall specify for this purpose).

- 20.2.3. Any communication or document received in accordance with this clause 20 (*Notices*) after 5.00p.m. (London time) on a Business Day, or on a day which is not a Business Day, will be deemed to have been delivered at 10.00 a.m. on the next Business Day.

20.3. English language

Any notice given or other documents provided under or in connection with this Deed must be in English.

21. Law and jurisdiction

Law

- 21.1. This Deed and any non-contractual obligations connected with it are governed by the law of Uganda.

21.2. Arbitration

- 21.2.1. Subject to clause 21.3 (*Option to litigate*) below, any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Deed, including any dispute involving any non-contractual obligations or any question regarding its existence, validity, interpretation, performance or termination (a **Dispute**), shall be referred to and finally resolved by arbitration under the LCIA Arbitration Rules (the **Rules**).

- 21.2.2. The Rules are incorporated by reference into this clause 21.2 and capitalised terms used in this clause 21.2 which are not otherwise defined in this Deed have the meaning given to them in the Rules.
- 21.2.3. The number of arbitrators shall be three (3). The Chargor shall nominate one (1) arbitrator for appointment by the LCIA Court. The Security Trustee shall nominate one (1) arbitrator for appointment by the LCIA Court. The LCIA Court shall appoint the chairman. If, within thirty (30) days of the Request for Arbitration being sent to the LCIA Registrar, (i) the Chargor does not make a nomination for an arbitrator; or (ii) the Security Trustee does not make a nomination for an arbitrator, the LCIA Court shall appoint such arbitrator. Any requirement in the Rules to take account of the nationality of a person considered for appointment as an arbitrator shall be disapplied and a person shall be nominated or appointed as an arbitrator (including as Chairman) regardless of his nationality.
- 21.2.4. Each Finance Party:
- 21.2.4.1. expressly agrees and consents to this procedure for nominating and appointing the Arbitral Tribunal; and
- 21.2.4.2. irrevocably and unconditionally waives any right to choose its own arbitrator.
- 21.2.5. The seat, or legal place of arbitration, shall be London. The language used in the arbitral proceedings shall be English.
- 21.2.5.1. All documents submitted in connection with the proceedings shall be in the English language or, if in another language, accompanied by an English translation.
- 21.2.5.2. Service of any Request for Arbitration made pursuant to this clause must be by registered post at the address given for the sending of notices under clause 20 (*Notices*).
- 21.2.6. Save as provided in clause 21.3 (*Option to litigate*) below, the jurisdiction of the English courts under sections 45 and 69 of the Arbitration Act 1996 is excluded.
- 21.2.7. Consolidation/Joinder
- 21.2.7.1. If any Dispute arising under, out of or in connection with this Deed (the **First Dispute**) involves issues of fact and/or law which are substantially the same as, or connected with, or touch upon, or concern issues of fact and/or law raised in:

- 21.2.7.1.1. any other dispute or difference arising under, out of or in connection with this Deed; and/or
- 21.2.7.1.2. any dispute arising under, out of or in connection with another Note Transaction Document(s),

(each a **Related Dispute**)

then, notwithstanding that the arbitrator may already have been agreed or appointed under this Deed or a Note Transaction Document in relation to the First Dispute or the Related Dispute, either party (the **Notifying Party**) may, by service of a written notice (which shall be sent by courier and which shall be deemed to have been received two (2) days after sending) (a **Consolidation Notice**) in accordance with this clause 21.2.7, request:

- 21.2.7.1.2.1. that the First Dispute be referred to the arbitrators appointed or to be appointed in respect of any Related Dispute to which the Notifying Party is also party; or that such a Related Dispute be referred to the arbitrators appointed or to be appointed in respect of the First Dispute; and that, in either case, the First Dispute and the Related Dispute specified in the Consolidation Notice (the **Notified Disputes**) are consolidated and heard as one dispute (the **Consolidated Dispute**). The Notifying Party must serve the Consolidation Notice on all parties to the Notified Disputes, and on any arbitrators, who have already been appointed or agreed in connection with any of the Notified Disputes. In the event of all concerned parties not having agreed upon consolidation as requested in the Consolidation Notice within fourteen (14) days after receipt, any party to the First Dispute or a Related Dispute may request any arbitrators appointed in respect of such dispute to make a

ruling on the matter. In the event of inconsistent decisions by different arbitrators relating to the consolidation of the Notified Disputes (including whether consolidation should occur at all and if so which arbitrator should preside over the Consolidated Dispute), the decision of the arbitrators appointed first in time (the **First Arbitrator**) shall prevail. Any decision by arbitrators as to whether Notified Disputes should be consolidated shall be determined taking into account:

- 21.2.7.1.2.2. the likelihood and consequences of inconsistent decisions if consolidation is not allowed;
 - 21.2.7.1.2.3. the extent of any delay on the part of the Notifying Party in serving the Consolidation Notice;
 - 21.2.7.1.2.4. the extent of any delay on the part of any party objecting to consolidation of the Notified Disputes in raising such objection;
 - 21.2.7.1.2.5. how far the arbitration or any other dispute resolution process in relation to each of the Notified Disputes has progressed; and
 - 21.2.7.1.2.6. the likely consequences of consolidation in terms of cost and time
- 21.2.7.2. The arbitrators with jurisdiction over the Consolidated Dispute pursuant to Clause 21.2.7.1 (the **Arbitrators**) shall then have discretion to revise any procedural directions, timetables or time limits that may have been agreed or ordered in respect of the First Dispute

or the Related Dispute and give any order in respect of the consolidation of the First Dispute and the Related Dispute as may be necessary. Any award, decision or order of the Arbitrators given in respect of a Consolidated Dispute shall be binding on all parties to the Consolidated Dispute.

21.2.7.3. The Arbitrators shall have jurisdiction to resolve finally the Consolidated Dispute to the exclusion of any other arbitrator and any appointment of another arbitrator in relation to the Consolidated Dispute will be deemed to be *functus officio*. Any such termination of an arbitrator's appointment shall be without prejudice to:

21.2.7.3.1. (subject to the foregoing provisions) the validity of any act done or order made by that arbitrator or by the court in support of that arbitration before the termination of his appointment;

21.2.7.3.2. his entitlement to be paid his proper fees and disbursements; and

21.2.7.3.3. the date when any claim or defence was raised for the purpose of applying any limitation bar or any similar rule or provision.

21.2.7.4. Either party shall be entitled to join as an additional party a third party to a Dispute that arises under, out of or in connection with this Deed or to a Consolidated Dispute. The Issuer consents to being joined as an additional party to disputes that arise under, out of or in connection with any Note Transaction Document. In the event that the Issuer is joined as an additional party to a dispute that arises under, out of or in connection with any Note Transaction Document it irrevocably waives any right to object to the appointment of an arbitrator appointed prior to the Issuer being joined to such dispute or to resist the enforcement of any award on the basis of the manner of the arbitrators' appointment.

21.3. Option to Litigate

21.3.1. At any time before the Arbitral Tribunal has been formed under clause 21.2 (*Arbitration*)

21.3.2. above, the Security Trustee may by notice in writing to all the other parties to this Deed (a **Notice**) opt to litigate all Disputes or a specific Dispute. In the event such

a Notice is given, clause 21.2 (*Arbitration*) above shall not apply to the Dispute or Disputes referred to in the Notice and this clause 21.3 shall apply instead.

21.3.3. The Ugandan courts shall have jurisdiction to hear the Dispute or Disputes referred to in a Notice. Subject to clause 21.3.4 below, such jurisdiction shall be exclusive and each Party submits to the exclusive jurisdiction of the Ugandan courts in such circumstances.

21.3.4. For the purposes of this clause 21.3, the Chargor waives objection to the Ugandan courts on the grounds that they are an inconvenient forum to settle the Dispute or Disputes referred to in a Notice.

21.3.5. This clause 21.3 is for the benefit of the Finance Parties only. To the extent allowed by law, the Security Trustee may on behalf of the Finance Parties take:

21.3.5.1. proceedings in any other court; and

21.3.5.2. concurrent proceedings in any number of jurisdictions;

in respect of any Dispute or Disputes referred to in a Notice.

21.3.6. Service of any Notice pursuant to this clause 21.3 must be by registered post at the address given for the sending of notices under clause 20 (*Notices*).

Waiver of Immunity

21.4. In respect of the Charged Assets the Chargor irrevocably and unconditionally:

21.4.1. agrees not to claim in any jurisdiction, for itself or in respect of its assets, immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and waives such present or future immunity, whether claimed or not.

21.4.2. consents generally to the giving of any relief or the issue of any process in connection with any proceedings, including the making, enforcement or execution against any property of any nature (irrespective of its use or intended use) of any order or judgment which may be made or given in any proceedings.

22. Assignment

The Chargor shall not assign its rights and obligations under this Deed without the prior written consent of the Chargee.

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of the deed.

Schedule 1

Administrative details of the parties

Party	Address	Fax number/email	Attention
eleQtra	5 Margaret Street London W1W 8RG United Kingdom	gad.cohen@eleqtra.com and alan.black@eleqtra.com	CEO and Legal Director
Issuer	Floor 4 Acacia Place, Plot 6 Acacia Avenue, Kololo, PO Box 35501, Kampala, Uganda	None	Managing Director
	cc: eleQtra	gad.cohen@eleqtra.com and alan.black@eleqtra.com	CEO and Legal Director
Security Trustee	GMG Trust Ltd 19th Floor, Newton Tower, Sir William Newton Street, Port- Louis, Mauritius	Fax: +230 405 9001 kim@gmgfinancial.com marco@gmgfinancial.com Haggay@gmgfinancial.com om	Kim Setzkorn, Marco Rapaglia and Haggay Aidlin

Schedule 2
Shares

Name of the Chargor	Number of shares	Class	Nominal value per share
eleQtra	839,915	ordinary shares	UGX 5,000
eleQtra	642,757	convertible preference shares	UGX 5,000

Schedule 3 Disclosures

Pursuant to email correspondence from John Opondo (KIS Managing Director) to Nedbank Limited dated 27 June 2018 at 15:50pm and 30 July 2019 at 15:13pm KIS was informally notified in 2017 of a police investigation dating back to February 2016 into KIS's banking practices between 1 January 2009 and 25 February 2016. We understand that a report was made to the Criminal Investigations Directorate ("CID") in Uganda that KIS received over-payments from UNRA into its Citibank bank account fraudulently and paid them into a foreign bank account. On 26 February 2016, D/IP Balaba Christian was granted a search order in respect of KIS's bank account *"including deposits, withdrawals and transactions in the interest of criminal inquiries"*. Although the CID investigation was in relation to KIS, KIS was not formally notified and was not required to provide any information.

In 2018, the CID requested the Bank of Uganda to provide KIS's bank statements from 2009 to 2018, so they may have been looking to resume the CID investigation into KIS. However, as far as KIS and InfraCo Africa are aware, KIS have never been contacted to provide any clarifications and no further action was ever taken in respect of this investigation.

InfraCo Africa conducted an internal review in 2017 of the bank transfer/payments and found no instances of mismanagement. Ernst & Young, on InfraCo Africa's behalf, also concluded a review in 2020 and found no major discrepancies.

SIGNATORY

Executed as a deed by

ELEQTRA LIMITED

acting by:

Name: Gad Cohen

Title: Chief Executive officer
in the presence of:




Name of witness: Aleksandra Laskowska

Address: 38 West 83rd Street, New York, NY 10024

Executed as a deed

by **GMG TRUST**

LTD acting by:

Name:

Trustee

Title:

in the presence of:

Name of

witness:

Executed as a deed by

**KALANGALA INFRASTRUCTURE SERVICES
LIMITED**

acting by:

Name:

Director

Title:

in the presence of:

Name of

witness:

SIGNATORY

Executed as a deed by

ELEQTRA LIMITED

acting by:

Name:

Title:

in the presence of:

Name of witness:

Address:

Executed as a deed

by **GMG TRUST**

LTD acting by:

Name: *Kini Setzkorn / Ronel A.*

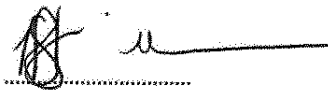
Title: *Director Williams*

in the presence of:

Prayag Torul

Name of

witness: *HANISTA PRAYAG TORUL*



Trustee

Executed as a deed by

**KALANGALA INFRASTRUCTURE SERVICES
LIMITED**

acting by:

Name:

Director

Title:

in the presence of:

Name of

witness:

SIGNATORY

Executed as a deed by

ELEQTRA LIMITED

acting by:

Name:

Title:

in the presence of:

Name of witness:

Address:

Executed as a deed

by **GMG TRUST**

LTD acting by:

Name:

Trustee

Title:

in the presence of:

Name of

witness:

Executed as a deed by

KALANGALA INFRASTRUCTURE SERVICES LIMITED

acting by:

Name: **RAVI DHANANI**

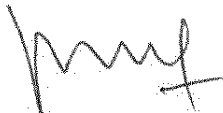
Title: **DIRECTOR**

in the presence of:

Name of **BARBARA MUNGAI**

witness: 


Director


SHONUBI, MUSOKE & Co.
ADVOCATES
P.O. BOX 3213
KAMPALA