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CHWP000

COMPANIES FORM No. 466(Scot)

Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

466

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

Pursuant to section 410 and 466 of the Companies Act 1985

COMPANIES HOUSE
FEE PAID
EDINBURGH

To the Registrar of Companies
(Address overleaf - Note 6)

For official use

Company number

Name of company

* ELETRO-FLOW CONTROLS LIMITED (the "Chargor")

Date of creation of the charge (note 1)

2 December 2009

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered (note 1)

Floating Charge (the "Floating Charge")

Names of the persons entitled to the charge

Souter Investments LLP

Short particulars of all the property charged

The whole of the property, assets and undertaking (including uncalled capital) from time to time of the Chargor.

Presenter's name address and reference (if any):

Paull & Williamsons LLP
Union Plaza
1 Union Wynd
Aberdeen, AB10 1DQ
DX AB35 ABERDEEN

For official use (02/06)

Charge Section

THURSDAY



SBIBNG21

SCT

24/12/2009

318

COMPANIES HOUSE

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Please complete
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in black type, or
bold block lettering

* insert full name
of company

See Continuation Sheet 1

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bold block lettering*

Date(s) of execution of the instrument of alteration

22 December 2009

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

Prior to the Senior Discharge Date and notwithstanding any provision of the Subordinated Documents the Shareholder Loan Agreement or the Intra-Group Documents, no Obligor or Intra-Group Debtor shall (and each Obligor will procure that none of its Subsidiaries shall) except as the Bank shall have previously consented in writing create or permit to subsist any Security over any of its assets as security for, or give any guarantee, indemnity or other assurance against loss in respect of, any of the Subordinated Liabilities (save for the Subordinated Security) or the Shareholder Lender Liabilities or the Intra-Group Liabilities, and following the Senior Discharge Date, but prior to the Subordinated Discharge Date and notwithstanding any provision of the Subordinated Documents the Shareholder Loan Agreement or the Intra-Group Documents, no Obligor or Intra-Group Debtor shall (and each Obligor will procure that none of its Subsidiaries shall) except as the Subordinated Creditors shall have previously consented in writing create or permit to subsist any Security over any of its assets as security for, or give any guarantee, indemnity or other assurance against loss in respect of, any of the Shareholder Lender Liabilities or the Intra-Group Liabilities.

See Continuation Sheet 2 for definitions.

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

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All existing and future Security conferred by the Senior Security Documents on the Bank will:

1. rank in all respects prior to any existing or future Security conferred by any Subordinated Security Document on the Subordinated Creditors regardless of the order of registration, recording, notice, execution or otherwise; and
2. secure all of the Senior Liabilities *pari passu* between themselves but in priority to the Subordinated Liabilities regardless of any matter or thing which, but for this provision could prejudice such priority, including:
 - (a) the date upon which the Senior Liabilities arose;
 - (b) whether the Bank is obliged to advance or make available any such Senior Liabilities;
 - (c) any fluctuations in the outstanding amount, or any intermediate discharge in whole or in part of the Senior Liabilities; and
 - (d) the existence at any time of a credit balance on any current or other account held with or for the benefit of the Bank.

See Continuation Sheet 2 for definitions.

Please complete
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in black type, or
bold block lettering

A fee is payable to
Companies House
in respect of each
register entry for a
mortgage or
charge.
(See Note 5)

Signed Paul & William LLP Date 23 December 2009
On behalf of ~~[company]~~ [chargee] ☐

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House**.
6. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF
DX 235 Edinburgh or LP - 4 Edinburgh 2

☐ delete as
appropriate

Continuation Sheet 1

To the Registrar of Companies

Name of Company	Company Number
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Electro-Flow Controls Limited	SC109038
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Names and addresses of those who have executed the Intercreditor Agreement:

- 1 Clydesdale Bank plc, 30 St. Vincent Place, Glasgow, G1 2HL
- 2 Maven Capital Partners UK LLP, co/o 10 Queen's Terrace, Aberdeen, AB10 1YG;
- 3 Simmons Parallel Private LP, c/o Simmons House, 22 Waverley Place, Aberdeen, AB10 1XP;
- 4 Souter Investments LLP, c/o 16 Charlotte Square, Edinburgh, EH2 4DF;
- 5 Michael Speakman, First Floor, Davidson House, Forbury Square, Reading, RG1 3EU;
- 6 Graeme Coutts, River View, Banchory, Aberdeenshire, AB31 5HS;
- 7 Aberdeen Income & Growth VCT plc, Maven Capital Partners UK LLP, 5th Floor, 9-13 St Andrew Street, London, EC4A 3AF;
- 8 Aberdeen Growth VCT 1 plc, Maven Capital Partners UK LLP, 5th Floor, 9-13 St Andrew Street, London, EC4A 3AF;
- 9 Aberdeen Growth Opportunities VCT plc, Maven Capital Partners UK LLP, 5th Floor, 9-13 St Andrew Street, London, EC4A 3AF;
- 10 Aberdeen Growth Opportunities VCT 2 plc, Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW;
- 11 Aberdeen Growth Opportunities VCT 2 plc – S Share, Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW;
- 12 Ortus VCT plc, c/o Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW;
- 13 Talisman First Venture Capital Trust plc, Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW;
- 14 Laminvest N.V., Trust House, 112 Bonadie Street, Kingstown, St Vincent;
- 15 Penta Co-Investment (2009) Limited Partnership, 150 St. Vincent Street, Glasgow, G2 5NE;

- 16 The Hamilton Portfolio Limited, Sterling House, 20 Renfield Street, Glasgow, G2 5AP;
- 17 Ben Brodie, 9 New Road, Ayr, KA8 8DA;
- 18 Arthur Watt, Appt 25, Rue du Luc 30, 1815 Clarens, Switzerland;
- 19 E G Thomson (Holdings) Limited, 108 Princes Street, Edinburgh, EH2 3AA;
- 20 BW SIPP Trustees Limited, Saint James's House, Saint James's Square, Cheltenham, GL50 3PR;
- 21 The Mattioli Woods SIPP Plans for William Robert Nixon by the name of The Nixon Family Protection Trust, c/o MW House, 1 Penman Way, Grove Park, Enderby, Leceister, LE19 1SY;
- 22 Ben Yearsley, 98 Portway, Bristol, BS9 2HS;
- 23 David Steventon, Mulberry Barn, Duncote, Towcester, Northants, NN12 8AL;
- 24 Bob Forbes, 7 Woodville Place, Hertford, Hertfordshire, SG14 3NX;
- 25 Intercede (Scotland) 1 Limited, 6 Queens Road, Aberdeen, AB15 4ZT;
- 26 Electro-Flow Controls Limited, Block 1, Unit 3, Souterhead Road, Altens, Aberdeen, AB12 3LF
- 27 Celeris Engineering Limited, Sunningdale, St. James' Place, Inverurie, Aberdeenshire, AB51 3UB;
- 28 EFC-Americas Inc., 1424 W. Sam Houston Parkway N, Suite 140, Houston, Texas, 77043, USA;
- 29 Tony Kitchener, 14131 Haynes Drive, Houston, Texas, TX77079;
- 30 Chris Mawtus, Exprop Americas, 739 HWY, 6 S Suite, Houston, Texas, 77079;
- 31 Alexander George Robertson, The Cottage, 2 Devanaha Gardens West, Aberdeen, AB11 7UW;
- 32 David Shand, Beatties Cottage, Drum Castle, Drumoak, Aberdeenshire, AB31 5AH;
- 33 Lynne Stables, Riversview, Banchory, Aberdeenshire, AB31 5HS;
- 34 John Wheeler, 57 Angusfield Avenue, Aberdeenshire, AB15 6AT; and
- 35 Robert Will, Sunningdale, St. James' Place, Inverurie, Aberdeenshire, AB51 3UB.

Pursuant to Section 466 of the Companies Act 1985

Continuation Sheet 2

To the Registrar of Companies

Name of Company	Company Number
Electro-Flow Controls Limited	SC109038

Definitions

In this Form 466:-

“Additional Guarantor” means a company which becomes a Guarantor in accordance with Clause 26 (*Changes to the Parties*) of the Senior Facility Agreement.

“Bank” means Clydesdale Bank plc

“C Loan Stock Instrument” means the instrument of the Company dated on or around the Closing Date, constituting £133,500 of secured loan stock 2014, pursuant to which the C Loan Stock are, or are to be, constituted.

“C Loan Stock” means the secured subordinated loan stock due 2014 of the Company constituted pursuant to the C Loan Stock Instrument.

“Celeris” means Celeris Engineering Limited (Company Number 06737086) and having its registered office at c/o CMS Cameron McKenna LLP, Mitre House, 160 Altersgate Street, London, EC1A 4DD

“Company” means Intercede (Scotland) 1 Limited, a company incorporated in Scotland with registered number SC363986 and having its registered office at 6 Queen’s Road, Aberdeen, AB15 4ZT.

“Creditors” means the Bank and each Subordinated Creditor and each Shareholder Lender and Intra-Group Creditor.

"Guarantor"	means an Original Guarantor or an Additional Guarantor.
"Group"	means the Obligors and each of their respective Subsidiaries for the time being.
"Intercreditor Agreement"	means the intercreditor agreement dated 22 December 2009 between, inter alia, Maven Capital Partners UK LLP, the Subordinated Creditors, the Shareholder Lenders and the Bank.
"Intra-Group Creditor"	means any member of the Group to whom any Intra-Group Liabilities may from time to time be payable or owing.
"Intra-Group Debtor"	means any member of the Group by whom any Intra-Group Liabilities may from time to time be payable or owing.
"Intra-Group Documents"	means all documents evidencing any Intra-Group Liabilities from time to time.
"Intra-Group Liabilities"	means the Liabilities from time to time due, owing or incurred (actually or contingently) by any member of the Group to any other member of the Group.
"Investment Agreement"	means the investment agreement dated 2 December 2009 between, among others, the Company and the Investors.
"Investor Loan Stock Instruments"	means the Simmons Loan Stock Instrument, the Maven Loan Stock Deed and the Souter Loan Stock Instrument.
"Investor Loan Stock"	means the Simmons Loan Stock, the Maven Loan Stock and the Souter Loan Stock.
"Investors"	means Maven Capital Partners UK LLP and Simmons Parallel Private L.P.
"Investor Security Documents"	means in favour of: (a) each of the Investors (i) a floating charge/debenture (as the case may be) by each of

Celeris, the Target and the Company (ii) a cross corporate guarantee by each of Celeris, the Target, EFC-Americas Inc. and the Company and (iii) a US law security agreement and account control agreement(s) by EFC-Americas Inc.; and

(b) each of the Private Investors (i) a floating charge/debenture (as the case may be) from each of Celeris, EFC and the Company and (ii) a cross corporate guarantee by each of Celeris, the Target and the Company; and

(c) Souter Investments (i) a floating charge/debenture (as the case may be) by each of Celeris, the Target and the Company and (ii) a cross corporate guarantee by each of Celeris, the Target and the Company.

"Liabilities"

means all present and future liabilities and obligations at any time of any Obligor to any Creditor, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

(a) any refinancing, novation, deferral or extension;

(b) any claim for damages or restitution; and

(c) any claim as a result of any recovery by any Obligor of a payment or discharge on the grounds of preference,

And any amounts which would be included in any of the above for any discharge, non-provability or unenforceability of those amounts in any insolvency or other proceedings.

"Loan Stock Documents"

means the Loan Stock and the Loan Stock Instruments.

"Loan Stock Instruments"

means the C Loan Stock Instrument and the

Investor Loan Stock Instruments.

“Loan Stock”

means the C Loan Stock and the Investor Loan Stock.

“Maven Loan Stock”

means the secured subordinated loan stock due 2014 of the Company constituted pursuant to the Maven Loan Stock Deed.

“Maven Loan Stock Deed”

means the Loan Stock trust deed of the Company dated on or around the Closing Date, constituting £2,002,500 secured loan stock 2014, pursuant to which the Maven Loan Stock is, or is to be, constituted.

"Maven Loan Stockholders"	means the persons listed in Part 4 of the Schedule to the Intercreditor Agreement as holders of the Maven Loan Stock.
"Obligor"	means the Company or a Guarantor.
"Original Guarantor"	means Intercede (Scotland) 1 Limited (company registration number SC363987), electro-Flow Controls Limited (company registration number SC10938), EFC-Americas Inc. (company registration number 142622500) and Celeris Engineering Limited (company registration number 06737086).
"Original Obligor"	means the Company or an Original Guarantor.
"Private Investors"	means Graeme Coutts, residing at River View, Banchory, Aberdeenshire, AB31 5HS and Michael Speakman of First Floor, Davidson House, Forbury Square, Reading, RG1 3EU.
"Security"	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
"Senior Discharge Date"	means the date on which the Senior Liabilities shall have been irrevocably discharged in full.
"Senior Facility Agreement"	means the facility agreement dated on or around the date of the Intercreditor Agreement between, <i>inter alia</i> , the Company (as borrower), the Original Obligors (as defined therein) and the Bank relating to overdraft and term loan facilities of up to £3,800,000.
"Senior Liabilities"	means all Liabilities from time to time due, owing or incurred (actually or contingently) by any Obligor to the Bank howsoever arising.
"Senior Security Documents"	means the Transaction Security Documents together with any present or future document conferring or evidencing any charge, guarantee or other assurance against financial loss, for or in

	respect of, the Senior Liabilities, or any of them.
"Shareholder Lender"	means Tony Kitchener, Chris Mawtus, Alexander George Robertson, David Shand, Lynne Stables, John Wheeler, Robert Will, Graeme Coutts and Michael Speakman.
"Shareholder Lender Liabilities"	means all present and future sums, obligations or liabilities from time to time due, owing or incurred (actually or contingently) by any Obligor to any of the Shareholder Lenders including: (a) under or in connection with the Shareholder Loan Agreement; or (b) in respect of any claim under or in connection with the Shareholder Loan Agreement (including for misrepresentation or breach of contract) or any other document entered into between an Obligor and any Shareholder Lender; or (c) under or in respect of any further loan or other advance made by any Shareholder Lender to any Obligor; or (d) in respect of any right of contribution, claim or counter-indemnity.
"Shareholder Loan Agreement"	means the loan agreement dated on or around the date of the Intercreditor Agreement between the Shareholder Lenders as lenders and Celeris Engineering Limited as borrower relating to loans of an aggregate amount of £45,000.
"Simmons Loan Stock"	means the secured subordinated loan stock due 2014 of the Company constituted pursuant to the Simmons Loan Stock Instrument.
"Simmons Loan Stock Instrument"	means the Loan Stock trust deed of the Company dated on or around the Closing Dated, constituting £2,225,000 secured loan stock 2014, pursuant to which the Simmons Loan Stock is, or

	is to be, constituted.
“Souter Investments”	means Souter Investments LLP, a limited liability partnership incorporated in Scotland (Registered number SO301325) and having its registered office at 16 Charlotte Square, Edinburgh, EH2 4DF.
“Souter Loan Stock”	means the secured subordinated loan stock due 2014 of the Company constituted pursuant to the Souter Loan Stock Instrument.
“Souter Loan Stock Instrument”	means the loan stock instrument of the Company dated on or around the Closing Date, constituting £222,500 secured loan stock 2014, pursuant to which the Souter Loan Stock is, or is to be, constituted.
“Subordinated Creditor”	means Maven Capital Partners UK LLP, Simmons Parallel Private L.P., Souter Investments LLP, Michael Speakman, and Graeme Coutts.
“Subordinated Discharge Date”	means the date on which the Subordinated Liabilities shall have been irrevocably discharged in full.
“Subordinated Documents”	means: (a) the Loan Stock Documents; (b) the Subordinated Security Documents; (c) the Investment Agreement; and (d) any other document from time to time evidencing any of the Subordinated Liabilities.
“Subordinated Liabilities”	means all present and future sums, obligations or liabilities from time to time due, owing or incurred (actually or contingently) by any Obligor to any of the Subordinated Creditors

including:

- (a) under or in connection with the Subordinated Documents; or
- (b) in respect of any fees, costs and expenses including any incurred to any Subordinated creditor in respect of advisory, monitoring or management services and directors fees; or
- (c) in respect of any claim under or in connection with the Subordinated Documents (including for misrepresentation or breach of contract) or any other document entered into between an Obligor and any Subordinated Creditor; or
- (d) under or in respect of any further loan or other advance made by any Subordinated Creditor to any Obligor; or
- (e) in respect of any right of contribution, claim or counter-indemnity.

“Subordinated Security”

means the Security created or expressed to be created in favour of the Subordinated Creditors pursuant to the Subordinated Security Documents.

“Subordinated Security Documents”

means the Investor Security Documents.

“Subsidiary”

means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

“Target”

means Electro-Flow Controls Limited (Company Number SC109038) having its registered office at 12-16 Albyn Place, Aberdeen, AB10 1PS.

“Target Acquisition”

means the acquisition by the Company of the Target Shares on the terms of the Target

Acquisition Documents.

“Target Acquisition Agreement”

means the share purchase agreement dated on or around the date of the Senior Facility Agreement relating to the sale and purchase of the Target Shares and made between the Company and the Vendors.

“Target Acquisition Documents”

means the Target Acquisition Agreement, the Target Disclosure Letter, the Tax Deed and any other documents designated as a “Target Acquisition Document” by the Bank and the Company.

“Target Disclosure Letter”

has the meaning given the “**Disclosure Letter**” in the Target Acquisition Agreement.

“Target Shares”

means the entire issued share capital of the Target.

“Tax Deed”

means the tax deed entered into on or around the date hereof between the Company and the Vendors.

“Transaction Security Documents”

means (1) each of the documents listed as being a Transaction Security Document in paragraph 3.5 of Part 2A of the Schedule (*Conditions Precedent*) of the Senior Facility Agreement and (2) any document required to be delivered to the Secured Party under Part 2B of the Schedule (*Conditions Precedent*) of the senior Facility Agreement together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.

“Vendors”

means the vendors under the Target Acquisition Agreement.



FILE COPY

**CERTIFICATE OF THE REGISTRATION
OF AN ALTERATION TO A FLOATING CHARGE**

**COMPANY NO. 109038
CHARGE NO. 5**

**I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT
OF ALTERATION DATED 22 DECEMBER 2009**

**WERE DELIVERED PURSUANT TO SECTION 878 OF THE
COMPANIES ACT 2006
ON 24 DECEMBER 2009**

**THE INSTRUMENT RELATES TO A CHARGE CREATED ON 2
DECEMBER 2009**

BY ELECTRO-FLOW CONTROLS LIMITED

**IN FAVOUR OF
SOUTER INVESTMENTS LLP**

FOR SECURING ALL SUMS DUE OR TO BECOME DUE

GIVEN AT COMPANIES HOUSE, EDINBURGH 31 DECEMBER 2009



Companies House
— for the record —



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**