Companies House

MR01(ef)

Registration of a Charge

Company name: **HORIZONTE MINERALS PLC**

Company number: **05676866**

Received for Electronic Filing: **07/10/2019**

X8FLQIZK

Details of Charge

Date of creation: **01/10/2019**

Charge code: **0567 6866 0002**

Persons entitled: **TMF TRUSTEE LIMITED**

Brief description: **NOT APPLICABLE**

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: **AMANDA GARDAM**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5676866

Charge code: 0567 6866 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st October 2019 and created by HORIZONTE MINERALS PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th October 2019 .

Given at Companies House, Cardiff on 8th October 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

REGISTRAR OF COMPANIES FOR ENGLAND AND WALES

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

Dated: 01 October 2019

HORIZONTE MINERALS PLC

and

HORIZONTE NICKEL (IOM) LIMITED

and

CLUNY (IOM) LTD

as Chargors

- and -

TMF TRUSTEE LIMITED
as Security Agent

LOAN SECURITY DEED

relating to the Araguaia nickel project in Para, Brazil

Cains

Fort Anne, Douglas, Isle of Man IM1 5PD
www.cains.com

30119.0001/62210489

CONTENTS

THIS DEED is dated 01 October 2019 and made

BETWEEN:

(1) **HORIZONTE MINERALS PLC** (a company incorporated under the laws of England (company number 05676866) whose registered office is at Rex House, 4-12 Regent Street, London, SW1 4RG);

(2) **HORIZONTE NICKEL (IOM) LIMITED** (a company incorporated under the laws of the Isle of Man (company number 009985V) whose registered office is at 1st Floor Viking House, St Paul's Square, Ramsey Isle of Man IM8 1GB);

(3) **CLUNY (IOM) LTD** (a company incorporated under the laws of the Isle of Man (company number 012567V) whose registered office is at 1st Floor Viking House, St Paul's Square, Ramsey Isle of Man IM8 1GB);

(the "Chargors" and each a "Chargor"); and

(4) **TMF TRUSTEE LIMITED** (a private limited company incorporated in England and Wales (company number 03814168) whose registered office is at 8th Floor, 20 Farringdon Street, London, EC4A 4AB) (the "Security Agent" which expression includes its successors and assigns as security agent and security trustee for OMF Fund III (MG) Ltd and, from the Project Finance Commencement Date, the Project Finance Parties).

BACKGROUND:

(A) Each Chargor is entering into this Deed in connection with the Royalty Agreement.

(B) It is a requirement under the Royalty Agreement that each Chargor enters into this Deed in favour of the Security Agent as agent and trustee of Orion.

(C) It is intended that Project Finance Parties will enter into the Project Finance Documents with Nickel Production Services B.V., Araguaia Niquel Metais Ltda and/or any other Obligor pursuant to which the Project Finance Parties will lend up to US$550,000,000 to such party. In connection with this, it is intended that from the Project Finance Commencement Date, the security created by the Obligors in favour of the TMF Security Agents will also be held by them on trust for the Project Finance Parties in respect of the liabilities of Nickel Production Services B.V., Araguaia Niquel Metais Ltda and/or any other Obligor under the Project Finance Documents.

(D) It is intended that this document takes effect as a deed even though a Party may only execute it under hand.

IT IS AGREED as follows:

1. **Interpretation**

1.1 **Definitions**

In this Deed and its recitals:

"Additional Loan Agreement" means any intercompany loan agreement entered into by a Chargor as lender with another Obligor as borrower on or after the date of this Deed pursuant to which the total value of the loan(s) advanced and outstanding thereunder exceed £500,000. For the avoidance of doubt, this includes any intercompany loan agreements entered into by a Chargor as lender with another Obligor as borrower before the date of this Deed which as at the date of this Deed does not exceed £500,000 but later exceeds £500,000.

"Assigned Contracts" means all the agreements or documents specified in Schedule 1 (*Assigned Contracts*) and any Additional Loan Agreement.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Charged Property" means all of the assets of the Chargors which from time to time are, or are expressed to be, subject to this Deed.

"Delegate" means any delegate, agent, attorney, nominee or sub delegate appointed by the Security Agent under Clause 13 (*Delegation*).

"Dispute" has the meaning given to such term in Clause 21.1.

"Enforcement Event" means whichever is the first to occur of (i) the date upon which the Instructing Party notifies the Security Agent and the Chargors in writing that a Default (as defined under the Royalty Agreement) has occurred; (ii) the date upon which the Instructing Party notifies the Security Agent and the Chargors in writing that an Event of Default (as defined in the Project Finance Documents) has occurred; or (iii) the date upon which the Instructing Party notifies the Security Agent and the Chargors that any of the Secured Obligations have become immediately due and payable (whether by acceleration or automatically or otherwise in accordance with their terms).

"Instructing Party" means Orion until the Project Finance Commencement Date, and thereafter shall mean any such party as may be designated as such in an intercreditor agreement to be entered into between Orion and the Project Finance Parties.

"Obligors" means the Chargors, Horizonte Exploration Ltd., Nickel Production Services B.V., Araguaia Niquel Metais Ltda, Typhon Brasil Mineração Ltda. and Horizonte Minerals (IOM) Limited.

"Orion" means a company incorporated under the laws of the Cayman Islands (company number 354405) whose registered office is at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands, being the royalty holder under the Royalty Agreement.

"Party" means a party to this Deed.

"Project Finance Commencement Date" means the date upon which each of the following has occurred: (i) the TMF Security Agents have confirmed that they have agreed to act as security agent in relation to the Project Finance Documents, (ii) the Project Finance Documents have been entered into, and (iii) the Security Agency Deed and each of the Security Agreements have, if required, been amended in connection with the entry into the Project Finance Documents in a manner acceptable to the TMF Security Agents (acting in their own interests).

"Project Finance Documents" means the financing documents (including an intercreditor agreement to which Orion is a party) that are intended to be entered into between the Project Finance Parties and Nickel Production Services B.V., Araguaia Niquel Metais Ltda and/or any other Obligor pursuant to which the Project Finance Parties will lend up to US$550,000,000 to such party.

"Project Finance Parties" means the institutions that will enter into the Project Finance Documents with Nickel Production Services B.V., Araguaia Niquel Metais Ltda and/or any other Obligor for the purpose of providing finance to such party or acting as agent or security agent for their benefit.

"Receiver" means a receiver or manager or administrative receiver appointed by the Security Agent of the whole or any part of the Charged Property.

"Royalty Agreement" means the royalty agreement entered into on 28 August 2019, by and between Nickel Production Services B.V., as grantor, Orion, as royalty holder, and Araguaia Niquel Mineracao Ltd and Typhon Brasil Mineracao Ltda, among others, as Grantor Guarantors, as may be amended from time to time.

"Secured Documents" means the Royalty Agreement, the Project Finance Documents, the Security Agreements and the Security Agency Deed.

"Secured Obligations" means any Obligor's obligations to pay (i) the Royalty and any Termination Amount, (ii) any other amounts due under or in connection with the Royalty Agreement, (iii) with effect from the Project Finance Commencement Date, any amounts due by Nickel Production Services B.V., Araguaia Niquel Metais Ltda and/or any other Obligor to the Project Finance Parties under or in connection with the Project Finance Documents, and (iv) any amounts due to any TMF Security Agent or any Receiver or Delegate under (and as defined in) the Security Agency Deed, any Security Agreement or other document evidencing any Transaction Security or any Project Finance Document.

"Security Agency Deed" means the security agency deed between, amongst others, Orion, the TMF Security Agents and the Chargors, entered into on or about the date of this Deed.

"Security Agreements" has the meaning given to such term in the Security Agency Deed.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Security Agent is satisfied that all the Secured Obligations have been irrevocably paid in full and that all facilities which might give rise to any Secured Obligations have been terminated.

"Third Parties Act" has the meaning given to such term in Clause 1.3(A).

"TMF Security Agent" means the Security Agent and any other person identified as a Security Agent under and for the purposes of the Security Agency Deed.

"Transaction Security" means the security created or expressed to be created in favour of the Security Agent pursuant to this Deed .

1.2 **Construction**

(A) Any reference in this Deed to the "Royalty Agreement", a "Security Agreement", a "Project Finance Document" or any other agreement or instrument is a reference to that Royalty Agreement, Security Agreement, Project Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in any facility under the Royalty Agreement, the Project Finance Documents or other agreement or instrument.

(B) A reference in this Deed to the singular includes the plural and vice versa.

(C) Unless a contrary indication appears, a reference in this Deed to "Charged Property" includes any part of that Charged Property and the proceeds of that Charged Property.

(D) Each of the undertakings given by the Chargors in this Deed remain in force from the date of this Deed until the end of the Security Period.

(E) Each representation and warranty expressed to be made by the Chargors in this Deed is made by the Chargors on the date of this Deed and is deemed to be repeated on each day during the Security Period by reference to the facts and circumstances then existing.

(F) "Administration" shall have the same meaning as in the Insolvency Act 1986 (an Act of the United Kingdom Parliament) and includes any equivalent or analogous proceedings under the laws of any other applicable jurisdiction and any reference to an administrator or an administrative receiver shall have the same meaning as in the Insolvency Act 1986 (an Act of the United Kingdom Parliament) and includes the equivalent official in any other applicable jurisdiction.

(G) Unless defined in this Deed or the context otherwise requires, a term defined in the Royalty Agreement:

(1) as provided to the Security Agent on the date of this Deed; or

(2) as may be amended after the date of this Deed and the form of which has been agreed in writing by each of the TMF Security Agents,

has the same meaning when used in this Deed.

1.3 Third party rights

(A) A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 2001 (the "Third Parties Act") to enforce or enjoy the benefit of any term of this Deed.

(B) Notwithstanding any term of the Royalty Agreement or any Project Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

(C) Any Receiver or Delegate may, subject to this Clause 1.3 and the Third Parties Act, rely on any Clause of this Deed which expressly confers rights on it.

2. Covenant to Pay

Each Chargor shall pay each of the Secured Obligations when due, or if they do not specify a time, on demand.

3. Creation of Security

3.1 Security generally

This Deed:

(A) is created in favour of the Security Agent;

(B) is created over the present and future assets of the Chargors referred to in Clauses 3.2 and 3.3; and

(C) is security for the payment of all the Secured Obligations.

3.2 **Contracts**

(A) Each Chargor assigns absolutely to the Security Agent all of its rights and interests as lender in, to and under the Assigned Contracts.

(B) To the extent that they do not fall within any other part of this Clause or are not effectively assigned under Clause 3.2(A), each Chargor charges by way of first fixed charge all of its rights as lender under each Assigned Contract.

(C) If a Chargor assigns an agreement or document under this Deed (or charges it by way of a first fixed charge) and the assignment or charge breaches a term of that agreement or document because a third party's consent has not been obtained:

(1) that Chargor shall notify the Security Agent immediately;

(2) unless the Security Agent otherwise requires, that Chargor shall use all reasonable endeavours to obtain the necessary consent as soon as practicable; and

(3) that Chargor shall promptly supply to the Security Agent a copy of the consent obtained by it.

3.3 **Authorisations**

Each Chargor charges by way of first fixed charge the benefit of all Authorisations held by it in relation to any Charged Property, together with the right to recover and receive compensation which may be payable to it in respect of any Authorisation.

4. **Continuing Security**

4.1 **Continuing Security**

This Deed is a continuing security and will extend to the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

4.2 **Additional Security**

This Deed:

(A) is in addition to, and is not in any way prejudiced by, any other security or other right now or subsequently held by Orion, the Security Agent or, from the Project Finance Commencement Date, any Project Finance Party; and

(B) may be enforced against a Chargor without having recourse to any other rights of Orion, the Security Agent or, from the Project Finance Commencement Date, any Project Finance Party.

5. **Further Assurance**

(A) Each Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its delegate(s)):

(1) to perfect the Transaction Security (which may include the execution of a mortgage, charge, assignment or other security over all or any of the assets which are, or are intended to be, the subject of Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent, Orion or, from the Project Finance Commencement Date, any Project Finance Party provided by or pursuant to this Deed, the Royalty Agreement, any Project Finance Document or by law;

(2) to confer on the Security Agent or confer on Orion or, from the Project Finance Commencement Date, any Project Finance Party security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Transaction Security; and/or

(3) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed.

(B) Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Security Agent by or pursuant to this Deed.

6. Restrictions on Dealing

6.1 Negative pledge

The Chargors shall not create or permit to subsist any security over any Charged Property, except as permitted by the Royalty Agreement and in addition from the Project Finance Commencement Date, the Project Finance Documents.

6.2 Disposals

The Chargors shall not (nor agree to) enter into a single transaction or series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Charged Property except as permitted by the Royalty Agreement and in addition from the Project Finance Commencement Date, the Project Finance Documents.

7. Contracts

7.1 Representations

Each Chargor in its capacity as lender under the relevant Assigned Contract represents and warrants to the Security Agent for the benefit of itself, Orion and in addition from the Project Finance Commencement Date, the Project Finance Parties that:

(A) all payments to it by any other party to any of its Assigned Contracts are not subject to any right of set-off or similar right;

(B) each of its Assigned Contracts is its legally binding, and enforceable obligation;

(C) it is not in default of any of its material obligations under any of its Assigned Contracts;

(D) there is no prohibition on assignment by that Chargor in any of its Assigned Contracts, or consent to such assignment has been obtained; and

(E) its entry into and performance of this Deed will not conflict with any term of any of its Assigned Contracts.

7.2 Documents

Each Chargor shall promptly deliver to the Security Agent copies of all Assigned Contracts to which it is a party (certified by a director of the relevant Chargor) as they are now in effect and as may be requested by the Security Agent from time to time and shall promptly deliver to the Security Agent such other documents relating to the Assigned Contracts as the Security Agent may reasonably require.

7.3 No variation etc

Unless otherwise provided in the Royalty Agreement and in addition from the Project Finance Commencement Date, the Project Finance Documents, the Chargors shall not:

(A) amend, vary or waive (or agree to amend, vary or waive) any provision of any Assigned Contract, exercise any right to rescind, cancel or terminate any Assigned Contract or release any counterparty from any obligations under any Assigned Contract;

(B) waive any breach by any counterparty to an Assigned Contract or consent to any act or omission which would otherwise constitute such a breach of an Assigned Contract; or

(C) novate, transfer or assign any of its rights under any Assigned Contract.

7.4 Breach

Each Chargor shall promptly notify the Security Agent of any breach of or default under an Assigned Contract by it or any other party and any right of it or any other party arising to terminate or rescind an Assigned Contract promptly on becoming aware of the same.

7.5 Information

Each Chargor shall promptly provide the Security Agent with any information it reasonably requires in relation to any Assigned Contract to which it is a party as lender.

7.6 Rights

(A) Subject to the rights of the Security Agent under Clause 7.6(B), each Chargor shall diligently pursue its rights under each of its Assigned Contracts, but only if and to the extent that the exercise of those rights in the manner proposed would not result in a Default.

(B) Following the occurrence of an Enforcement Event, the Security Agent may exercise (without any further consent or authority on the part of the Chargors and irrespective of any direction given by the Chargors) any of the Chargors' rights under the Assigned Contracts.

7.7 **Notices of charge or assignment**

(A) Each Chargor shall immediately serve a notice of charge or assignment, substantially in the applicable form as set out in Schedule 2 (*Notice to Counterparty to Assigned Contract*) on each counterparty to an Assigned Contract to which it is a party as lender.

(B) Each Chargor shall use reasonable endeavours to ensure that each counterparty to an Assigned Contract to which it is a party as lender acknowledges receipt of that notice, substantially in the applicable form as set out in Schedule 2 (*Notice to Counterparty to Assigned Contract*).

8. **Representations**

Each Chargor represents and warrants to the Security Agent for the benefit of the Security Agent, Orion and in addition from the Project Finance Commencement Date, the Project Finance Parties that:

(A) this Deed:

(1) creates (or, once entered into, will create) in favour of the Security Agent, the security which it is expressed to create, fully perfected and with the ranking and priority it is expressed to have;

(2) is not subject to any prior or pari passu ranking security; and

(3) is not liable to be avoided or set aside on its liquidation, administration or otherwise; and

(B) it is the absolute legal and beneficial owner of all the assets over which it purports to create any security pursuant to this Deed.

9. **Enforcement**

9.1 **When enforceable**

This Deed shall be immediately enforceable if an Enforcement Event occurs.

9.2 **No liability as mortgagee in possession**

Neither the Security Agent nor any Receiver or Delegate shall be liable, by reason of entering into possession of any Charged Property, to account as mortgagee in possession for any loss on realisation of for any neglect, default or omission for which a mortgagee in possession might be liable.

9.3 **No duty to enquire**

No person dealing with the Security Agent, any Receiver or any Delegate shall be concerned to enquire:

(A) whether the rights conferred by or pursuant to the Royalty Agreement or the Project Finance Documents are exercisable;

(B) whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with;

(C) otherwise as to the propriety or regularity of acts purporting or intended to exercise any such rights; or

(D) as to the application of any money borrowed or raised.

10. Receiver

10.1 Appointment of receiver

(A) The Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Charged Property if:

(1) an Enforcement Event occurs; or

(2) requested to do so by a Chargor.

(B) Any appointment under Clause 10.1(A) may be by deed, under seal or in writing under hand.

10.2 Removal

The Security Agent may by writing under hand remove any Receiver appointed by it and may appoint a new Receiver in place of any Receiver whose appointment it may have terminated.

10.3 Remuneration

The Security Agent may determine the remuneration of any Receiver appointed by it and direct payment of that remuneration out of moneys received by it as Receiver.

10.4 Agent of Chargor

(A) Any Receiver will be deemed to be the agent of a Chargor for all purposes. The relevant Chargor alone is responsible for all contracts, engagements, acts, omissions, defaults, remuneration and all other costs, losses and expenses of a Receiver and for liabilities incurred by a Receiver.

(B) Neither the Security Agent nor a Receiver or Delegate will be in any way liable or responsible to a Chargor or any other person for any loss or liability of any kind arising by reason of the appointment of a Receiver or from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Property or the Transaction Security, except to the extent caused by its own negligence or wilful misconduct.

10.5 Security Agent's rights

Any rights conferred by the Royalty Agreement or any Project Finance Document upon a Receiver may be exercised by the Security Agent, whether or not the Security Agent shall have taken possession or appointed a Receiver of the Charged Property.

11. Powers of Receiver

11.1 General

(A) A Receiver has all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred on it by any law.

(B) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

11.2 **Possession**

A Receiver may take immediate possession of, get in and collect any Charged Property.

11.3 **Carry on business**

A Receiver may carry on the business of a Chargor in any manner he thinks fit.

11.4 **Employees**

(A) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.

(B) A Receiver may discharge any person appointed by a Chargor.

11.5 **Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Charged Property either in priority to the Transaction Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

11.6 **Sale of assets**

(A) A Receiver may sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms which he thinks fit.

(B) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

11.7 **Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of a Chargor or relating in any way to any Charged Property.

11.8 **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Charged Property which he thinks fit.

11.9 **Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Charged Property.

11.10 Subsidiaries

A Receiver may form a subsidiary of a Chargor and transfer to that subsidiary any Charged Property.

11.11 Delegation

A Receiver may delegate his powers in accordance with this Deed.

11.12 Lending

A Receiver may lend money or advance credit to any customer of a Chargor.

11.13 Protection of assets

A Receiver may:

(A) effect any insurance and do any other act which a Chargor might do in the ordinary conduct of its business to protect any Charged Property; and

(B) apply for and maintain any approval or any other authorisation,

in each case as he thinks fit.

11.14 Other powers

A Receiver may:

(A) do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;

(B) exercise in relation to any Charged Property all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Property; and

(C) use the name of a Chargor for any of the above purposes.

12. Power of Attorney

12.1 Appointment

Each Chargor by way of security irrevocably appoints the Security Agent, any Receiver and any Delegate severally its attorney (with full power of substitution), on its behalf and in its name or otherwise at such time and in such manner as the attorney may think fit:

(A) to do anything which the relevant Chargor is obliged to do under this Deed, the Royalty Agreement and in addition from the Project Finance Commencement Date, any Project Finance Document; and

(B) to exercise any of the rights conferred on the Security Agent, any Receiver or any Delegate in relation to the Charged Property or under this Deed, the Royalty Agreement and in addition from the Project Finance Commencement Date, or any Project Finance Document.

12.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney does or purports to do under its appointment under this Clause 12.

13. Delegation

13.1 Delegate and sub-delegates

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

13.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) as the Security Agent or any Receiver thinks fit.

13.3 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to a Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

14. Preservation of Security

14.1 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of a Chargor or any security for those obligations or otherwise) is made by the Security Agent in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

14.2 Waiver of defences

The obligations of each 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 (and whether or not known to it or Orion and in addition from the Project Finance Commencement Date, any Project Finance Party) including without limitation:

(A) any time, waiver or consent granted to, or composition with, any other person;

(B) the release of any other person under the terms of any composition or arrangement with any creditor of any other person;

(C) 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, 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;

(D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;

(E) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) of the Royalty Agreement, any Project Finance Document or any other document or security;

(F) any unenforceability, illegality or invalidity of any obligation of any person under the Royalty Agreement, any Project Finance Document or any other document or security; or

(G) any insolvency or similar proceedings.

14.3 **Immediate recourse**

Each Chargor waives any right it may have of first requiring the Security Agent, Orion or any Project Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of the Royalty Agreement or any Project Finance Document to the contrary.

14.4 **Appropriations**

Until the Secured Obligations have been irrevocably paid in full, the Security Agent may:

(A) refrain from applying or enforcing any other moneys, security or rights held or received by it in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and

(B) hold in a suspense account any moneys received from a Chargor or on account of a Chargor's liability under this Deed.

14.5 **Deferral of Chargor's rights**

Until the Secured Obligations have been irrevocably paid in full and unless the Security Agent otherwise directs, no Chargor shall exercise any rights which it may have by reason of performance by it of its obligations under the Royalty Agreement and in addition from the Project Finance Commencement Date, any Project Finance Document or by reason of any amount being payable, or liability arising, under this Deed:

(A) to be indemnified by any other person;

(B) to claim any contribution from any other guarantor of that Chargor's obligations under the Royalty Agreement and in addition from the Project Finance Commencement Date, the Project Finance Documents;

(C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of Orion under the Royalty Agreement, of any rights of any Project Finance Party under any Project Finance Document or of any other guarantee or security taken pursuant to, or in connection with, the Royalty Agreement by the Security Agent by or for the benefit of Orion, or any Project Finance Document by the Security Agent by or for the benefit of any Project Finance Party;

(D) to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which a Chargor has given a guarantee, undertaking or indemnity under the Royalty Agreement and in addition from the Project Finance Commencement Date, the Project Finance Documents;

(E) to exercise any right of set-off against any other person; and/or

(F) to claim or prove as a creditor of any other person in competition with the Security Agent, Orion and in addition from the Project Finance Commencement Date, Project Finance Party.

If a Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Agent, Orion or any Project Finance Party under or in connection with this Deed or any of the Secured Documents to be repaid in full on trust for the Security Agent and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application.

15. Enforcement Expenses

Enforcement expenses

Each Chargor shall, within three Business Days of demand, pay to the Security Agent the amount of all costs, losses, liabilities and expenses (including legal fees) incurred by the Security Agent, Orion, any Project Finance Party, any Receiver or any Delegate in connection with the enforcement of or the preservation of any right under this Deed and any proceedings instituted by or against the Security Agent as a consequence of taking or holding this Deed or enforcing those rights.

16. Changes to the Parties

16.1 Assignments and transfer by the Chargors

The Chargors may not assign any of their rights or transfer any of their rights or obligations under this Deed.

16.2 Assignment and transfer by the Security Agent

The Security Agent may assign any of its rights or transfer any of its rights or obligations under this Deed to any successor Security Agent appointed under the Security Agency Deed.

17. Payments

17.1 Payments

All payments by a Chargor under this Deed (including damages for its breach) shall be made in the currency in which the relevant amount is denominated, or if different, is payable and to such account, with such person and such other manner as the Security Agent may direct.

17.2 Continuation of accounts

(A) At any time if any subsequent security affects any Charged Property or a petition is presented or resolution passed in relation to the winding-up of a Chargor, the Security Agent may open a new account in the name of the relevant Chargor (whether or not it permits any existing account to continue).

(B) If the Security Agent does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant event occurred.

(C) No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce any Secured Obligations.

17.3 **Order of distributions**

All amounts received or recovered by the Security Agent or any Receiver or Delegate in the exercise of their rights under this Deed shall be applied in the following order:

(A) first, in or towards payment pari passu and pro rata according to the respective amounts thereof, all fees, costs, losses, liabilities, expenses or other amounts incurred by or owing to any TMF Security Agent and/or by or to any Receiver or Delegate appointed by such TMF Security Agent under (and as defined in) any Security Agreement, in each case under or in connection with the Security Agency Deed or any Security Agreement entered into by such TMF Security Agent;

(B) second, prior to the Project Finance Commencement Date, in or towards satisfaction of the Secured Obligations in such order as Orion shall specify and, with effect from the Project Finance Commencement Date, in such order as is specified in the intercreditor agreement to be entered into between Orion and the Project Finance Parties; and

(C) third, in or towards payment of any balance in payment to a Chargor or otherwise as required by law.

17.4 **No set-off by Chargor**

All payments to be made by the Chargors under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

18. **Release of Security**

18.1 **Release**

At the end of the Security Period the Security Agent shall at the request and cost of the Chargors, take whatever action is necessary to release the Charged Property from the Transaction Security.

18.2 **Retention**

If the Security Agent considers that any amount paid or credited to it under this Deed is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Obligations have been irrevocably paid.

19. **Counterparts**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

20. **Governing Law**

This Deed and any non-contractual obligations and other matters arising from or in connection with it are governed by Isle of Man law.

21. Jurisdiction

21.1 The courts of the Isle of Man have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with this Deed) (a "Dispute").

21.2 The Parties agree that the courts of the Isle of Man are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

21.3 This Clause 21 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been executed and delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1 : ASSIGNED CONTRACTS

Name of Chargor	Date	Description	Parties
Horizonte Minerals Plc	1 April 2016	Loan from Horizonte Minerals Plc to Cluny (IOM) Ltd	(1) Horizonte Minerals Plc (2) Cluny (IOM) Ltd
Horizonte Nickel (IOM) Limited	28 January 2011	Loan from Horizonte Nickel (IOM) Limited to Araguaia Niquel Metais Ltda (formerly Araguaia Niquel Mineraçao Ltda)	(1) Horizonte Nickel (IOM) Limited (2) Araguaia Niquel Metais Ltda (formerly Araguaia Niquel Mineraçao Ltda)
Cluny (IOM) Ltd	13 September 2019	Loan from Cluny (IOM) Ltd to Typhon Brasil Mineracao Ltda	(1) Cluny (IOM) Ltd (2) Typhon Brasil Mineracao Ltda

SCHEDULE 2 : NOTICE TO COUNTERPARTY TO ASSIGNED CONTRACT

To: [•]

Address: [•]

Date: ____________________ 2019

Dear Sirs,

This letter constitutes notice to you that under a security agreement dated [•] 2019 between, *inter alios*, [•] as chargor and TMF Trustee Limited as Security Agent (the "Security Agent") we have assigned to the Security Agent (as agent and trustee for the secured parties referred to in the Security Agreement) all of our present and future right, title and interest in and to the loan agreement dated [•] 2019 between [•] and [•] (the "Agreement") and other Assigned Contracts (as defined in the Agreement).

We will remain liable under the Agreement to perform all the obligations assumed by us under the Agreement. None of the Security Agent, its delegates, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Agreement.

We will be entitled to exercise all of its rights, powers and discretions under the Agreement, and you should continue to give notices under the Agreement to us, unless and until you receive notice from the Security Agent to the contrary. In this event, all the rights, powers and discretions under the Agreement will be exercisable by, and notices must be given to, the Security Agent or as it directs.

Please note that we have agreed not to amend, waive or vary any provision of or terminate the Agreement without the prior consent of the Security Agent.

We confirm that you may comply with the instructions in this letter without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by Isle of Man law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Agreement as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Security Agent at 20 Farringdon Street, London, 8th floor, EC4A 4AB, United Kingdom, marked for the attention of Corporate Trust.

....

For and on behalf of
[•]

as Chargor

[On duplicate]

We acknowledge receipt of the Notice of Assignment of which this is a copy and agree to comply with its terms. We confirm that we have not received any other notice of assignment or charge or notice that any other person claims any rights in respect of the Agreement.

....

For and on behalf of
[•]

Date: ....

EXECUTION PAGES TO LOAN SECURITY DEED

The Chargors

EXECUTED as a **DEED**
by **HORIZONTE MINERALS PLC**
acting through one Director:

By: J. MARTIN
Please print name of signatory

....
Signature

DIRECTOR
....
Title

in the presence of:
Signature of witness:
Name of witness: JAMES MUNRO
Address of witness: 3 MORE LONDON RIVERSIDE, LONDON SE1 2AQ

Address: c/o Horizonte Minerals plc, Rex House, 4-12 Regent Street, London SW1Y 4RG

Email: j.martin@horizonteminerals.com

Attention: Jeremy Martin

EXECUTED as a **DEED** by)
HORIZONTE NICKEL (IOM) LIMITED)
acting by a Director)

DIRECTOR
J. MARTIN

Address: c/o Horizonte Minerals plc, Rex House, 4-12 Regent Street, London SW1Y 4RG

Email: j.martin@horizonteminerals.com

Attention: Jeremy Martin

EXECUTED as a **DEED** by)
CLUNY (IOM) LTD)
acting by a Director)

J. Martin
Director

Address: c/o Horizonte Minerals plc, Rex House, 4-12 Regent Street, London SW1Y 4RG

Email: j.martin@horizonteminerals.com

Attention: Jeremy Martin

The Security Agent

EXECUTED as a **DEED**
by **TMF TRUSTEE LIMITED**
acting through one Director:

by: ....
Please print name of signatory

....

Signature

....

Title

in the presence of:
Signature of witness:

Name of witness:
Address of witness:

Address: 20 Farringdon Street, London, 8th floor, EC4A 4AB, United Kingdom

Fax/email: sfs.london@tmf-group.com; +44(0) 207 832 4901

Tel: +44 (0) 207 832 4900

Attention: Corporate Trust

EXECUTED as a **DEED** by)
CLUNY (IOM) LTD)
acting by a Director)

Address: c/o Horizonte Minerals plc, Rex House, 4-12 Regent Street, London SW1Y 4RG

Email: j.martin@horizonteminerals.com

Attention: Jeremy Martin

The Security Agent

EXECUTED as a **DEED**
by **TMF TRUSTEE LIMITED**
acting through one Director:

by: Nita Savjani
Please print name of signatory

....

Signature

....

Title Director

in the presence of:
Signature of witness:

Name of witness: Angeliki Lazari
Address of witness: 20 Farringdon Street
London
EC4A 4AB

Address: 20 Farringdon Street, London, 8th floor, EC4A 4AB, United Kingdom

Fax/email: sfs.london@tmf-group.com; +44(0) 207 832 4901

Tel: +44 (0) 207 832 4900

Attention: Corporate Trust

WITNESSES

James Munro

Name: JAMES MUNRO
Tax ID No.:
ID:

Name: JENS NESSJOW
Tax ID No.
ID: