



Registration of a Charge

Company name: **GERALD UK LIMITED**

Company number: **03961277**

Received for Electronic Filing: **21/05/2019**



X85WK5H7

Details of Charge

Date of creation: **20/05/2019**

Charge code: **0396 1277 0009**

Persons entitled: **UNICREDIT BANK AG**

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 SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PHILIP BESWICK**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3961277

Charge code: 0396 1277 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th May 2019 and created by GERALD UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st May 2019 .

Given at Companies House, Cardiff on 22nd May 2019

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Name:

Title: Solicitor

Date:

21/05/2019

PHILIP GESWICK

RETURN TO BANK

Execution version

Hogan Lovells International LLP (Ref: F21AMT/8W3)
Atlantic House, Holborn Viaduct, London EC1A 2FG

PLEDGE OVER GOODS

(the "Deed of Pledge")

This Deed of Pledge is dated 20 MAY 2019 and made between

- (1) **UniCredit Bank AG**, a stock corporation (*Aktiengesellschaft*) organised under the laws of Germany, having its corporate seat in Munich, Germany, and registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Munich under number HR B 421 48 and having its business address at Arabellastrasse 14, 81925 Munich, Germany (the "Pledgee");
 - (2) **Gerald Metals SA**, a public limited company (*société anonyme*) organised under the laws of Switzerland, having its registered office at 29, Rue de la Gare, 1110 Morges, Switzerland and registered under registration number CHE-107.884.163 (the "Pledgor 1"); and
 - (3) **Gerald UK Limited**, a limited liability company incorporated under the laws of England and Wales, having its registered office at Third Floor, One Strand Grand Buildings, Trafalgar Square, London, WC2N 5HR, United Kingdom and registered under company number 03961277 (the "Pledgor 2", and together with Pledgor 1, the "Pledgors" and each a "Pledgor"),
- (the Pledgors and the Pledgee are together referred to as the "Parties" and each as a "Party").

Preamble:

- A. The Pledgee has agreed to make available to the Pledgors financial accommodations for the purpose of financing the purchase of ferrous and non-ferrous metals as well as precious metals, steel and raw materials as well as soft commodities pursuant to the terms of the Facility Agreement (as defined below).
- B. In consideration of the Pledgee making such financial accommodations available to the Pledgors, the Pledgors have agreed to enter into this Deed of Pledge in support of their respective obligations under the Facility Agreement.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. Interpretation

1.1 Definitions

- (a) In this Deed of Pledge:

"**Expenses**" means all fees, discounts, commissions and other banking or service charges, legal and other professional fees, premiums, costs or expenses, in each case calculated on a full indemnity basis and together with VAT, incurred by the Pledgee in connection with the Pledged Assets, the preparation, negotiation and creation of this Deed of Pledge, taking, perfecting, enforcing or exercising any power under this Deed of Pledge, the breach of any provision of this Deed of Pledge and/or the protection, realisation or enforcement of this Deed of Pledge, and includes the costs of transferring to the Pledgee any security ranking in priority to the security constituted by this Deed of Pledge, or the amount required to be paid to secure the unconditional and irrevocable discharge of such security, or any of the foregoing as the context shall require.

"**Facility Agreement**" means the facility agreement dated on or around the date of this Deed of Pledge made between (1) the Pledgors as borrowers and (2) the Pledgee for the provision of an uncommitted facility (as amended, varied, novated, supplemented, superseded or extended from time to time).

"**LPA**" means Law of Property Act 1925.

"**Pledged Asset**" means:

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- (a) any bill of exchange, promissory note or other negotiable instrument;
- (b) any bill of lading, sea waybill, railway bill, intermodal bill, dock warrant, delivery order, warehouse warrant, certificate or receipt, wharfingers' warrant, certificate or receipt, or certificate, or any other document of title or document relating to goods;
- (c) any goods represented by any document referred to in (b) above or to which any such document relates; and
- (d) any produce, commodities, goods or tangible thing,

which is owned by, or in which a Pledgor has any kind of proprietary interest, and which is now, or may at any time after the date of this Deed of Pledge be, in the Pledgee's possession or that of an agent, representative or nominee of the Pledgee, or warehoused or stored in the Pledgee's name or in the name of the Pledgee's agent, representative or nominee, or received by, deposited or lodged with, transferred to or otherwise held by the Pledgee or to the order or under the control of the Pledgee or the Pledgee's agent, representative or nominee (either directly or indirectly, whether from or by a Pledgor or any other person and whether for safe custody, collection, security or for any specific purpose or generally) and in each case relating to a Financed Cargo.

"Secured Obligations" means, with respect to a Pledgor, any and all obligations, monies and liabilities (present and future, actual and contingent) and whether owed as principal or surety or in any other capacity, which are (or are expressed to be) or become owing by that Pledgor to the Pledgee under or in connection with the Finance Documents including any obligation based on unjust enrichment (*ungerechtfertigte Bereicherung*) or tort (*Delikt*) and, for the avoidance of doubt, including any such obligations, monies and liabilities owing as a result of and/or following an accordion increase of the facility amount made available under the Facility Agreement effected with the consent of that Pledgor from time to time in accordance with the Facility Agreement.

"Third Parties Act" means the Contracts (Rights of Third Parties) Act 1999.

- (b) Unless defined otherwise herein, capitalised terms and expressions used herein shall have the meaning ascribed to them in the Facility Agreement.

1.2 Third Party Rights

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed of Pledge.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed of Pledge at any time.

2. Covenant to pay

2.1 Consideration

Each Pledgor has entered into this Deed of Pledge in consideration of the Pledgee agreeing to provide (or to continue to provide) finance facilities to it on the terms agreed between them.

2.2 Covenant

Each Pledgor hereby, as primary obligor and not merely as surety, covenants with the Pledgee that it will pay, discharge and perform its Secured Obligations on demand and in the manner provided for in the Finance Documents.

2.3 Multiple demands

The making of one demand under this Deed of Pledge shall not preclude the Pledgee from making further demands.

3. Pledge

3.1 Each Pledgor hereby agrees and states its irrevocable intention that the Pledgee shall have a pledge upon all its Pledged Assets as continuing security for the payment or discharge of the Secured Obligations owed by the relevant Pledgor (the "**Pledge**").

3.2 In case of theft, loss or misappropriation of the Pledged Assets, and to the extent not otherwise covered by security granted in favour of the Pledgee in connection with the Facility Agreement, this Deed of Pledge shall apply by operation of the applicable law to all assets which accrue to the Pledgee as a result thereof, including without limitation replacements of the Pledged Assets, on the same terms and conditions as set out in this Deed of Pledge.

3.3 This Deed of Pledge is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Pledgee.

4. Representations and Warranties

4.1 Without prejudice and in addition to the representations and warranties set forth in the Facility Agreement which are incorporated herein by way of reference, each Pledgor makes the representations and warranties set out in this Clause 4 to the Pledgee and acknowledges that the Pledgee is relying on these representations and warranties when entering into this Deed of Pledge.

- (a) The Pledge evidenced by Clause 3.1 above is an effective and perfected first ranking security over its respective Pledged Assets and constitutes legal and valid obligations binding on the relevant Pledgor and is enforceable against the relevant Pledgor in accordance with its terms, subject to the qualifications as set out in the legal opinions provided for in clause 5.1 (*Initial conditions precedent*) in connection with part I (*Initial conditions precedent*) of schedule 2 (*Conditions precedent*) of the Facility Agreement.
- (b) It either (1) prior to or upon the Pledgee's disbursement of a Loan, will be the sole legal and beneficial owner of each of its Pledged Assets and its Pledged Assets will be free and clear of any security right (except hereunder and except for obligations mandatorily preferred by law) and/or any restriction on the ability to encumber, transfer or realise all or any part of its Pledged Assets or (2) in the event that title has not already passed unrestricted or unencumbered to it at the time of the Pledgee's disbursement, caused any third party claiming title over its Pledged Assets (such as in particular the suppliers thereof) to waive in favour of the Pledgee any competing rights such third party may have over its Pledged Assets.
- (c) Each of its Pledged Assets which are subject to the Pledge:
 - (i) is or will be in existence in quantity and quality consistent with the information contained in the relevant Pledgor's Utilisation Request(s) which relate(s) to that Pledged Asset and with the amount disbursed by the Pledgee under the Facility;
 - (ii) is or will be properly and adequately packaged, loaded, forwarded and stored by reputable warehouse keepers and/or freight forwarders as described in the relevant Pledgor's Utilisation Request(s) which relate(s) to that Pledged Asset;
 - (iii) is covered by appropriate insurance against loss and material damage until the contractual transfer of risk to the buyer thereof;
 - (iv) has not been, and will not be, assigned, pledged, encumbered or otherwise disposed of;
 - (v) is at all times in possession and under the custody of parties other than the relevant Pledgor itself and that said third party possessors or custodians have issued all documents, statements, confirmations and other instruments necessary to perfect the Pledge over that Pledged Asset in accordance with the thereto related legal requirements at their physical location as well as in the jurisdiction of the relevant Pledgor's incorporation; and

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- (vi) whenever stored or in transit, is at all times properly marked, segregated, ring-fenced and identified as Pledged Asset pledged in favour of the Pledgee and is never altered, diluted, mixed or amalgamated with goods similar or identical to that Pledged Asset.

4.2 All the representations and warranties in this Clause 4 and set forth in the Facility Agreement are made by the Pledgors on the date of this Deed of Pledge. In addition, all the representations and warranties in this Clause 4 and set forth in the Facility Agreement are deemed to be made by the Pledgors on the date of each Utilisation Request, on each date of a Utilisation, the date on which the Bank makes any payment in respect of any Payment Undertaking and, in relation to each Short Term Loan, on the first day of each interest period. Each representation or warranty deemed to be made after the date of this Deed of Pledge shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

5. Undertakings

Without prejudice and in addition to the undertakings set forth in the Facility Agreement which are incorporated herein by way of reference, each Pledgor undertakes to:

- (a) furnish the Pledgee free of charge with all information, records and documents that are legally required or which may be otherwise reasonably requested for the purpose of securing, perfecting, monitoring or otherwise implementing and/or enforcing its rights under this Deed of Pledge;
- (b) sign and deliver (or procure that are signed and delivered) any documents, information or records and/or perform any act and/or take any measure that the Pledgee may deem necessary or desirable to perfect, give full force and effect of the Pledge and safeguard or enforce the Pledgee's rights over its Pledged Assets on first demand of the Pledgee;
- (c) provide the Pledgee with all original documents of title and/or evidencing ownership of its Pledged Assets and, to the extent possible, with all insurance policies covering its Pledged Assets;
- (d) pay when due all expenses, including handling charges, storage fees and insurance premiums in relation to its Pledged Assets and authorises the Pledgee to pay such expenses on its behalf;
- (e) at its own expense, take whatever action may be required to prevent any deterioration of any Pledged Assets and to notify the Pledgee of the need of such action and authorise the Pledgee to pay such expenses on its behalf; and
- (f) inform the Pledgee about the following:
 - (i) nature, quality, quantity and location of its Pledged Assets;
 - (ii) name and address of the warehouse company, forwarder, transport company that stores or handles its Pledged Assets;
 - (iii) all information and documentation in relation to the transport and storage of its Pledged Assets; and
 - (iv) a time table of transport of its Pledged Assets.

6. Power of Attorney

6.1 Each Pledgor, by way of security and to more fully secure the performance of its obligations under this Deed of Pledge, hereby irrevocably appoints the Pledgee and separately any nominee and/or any receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a receiver or administrator has been appointed) to:

- (a) do anything which that Pledgor is obliged to do (but has not done within the time period provided for in this Deed of Pledge) in accordance with this Deed of Pledge, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and

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- (b) following the occurrence of an Event of Default, enable the Pledgee or any such nominee and/or receiver to exercise (or to delegate) all or any of the rights conferred on it by this Deed of Pledge or by statute in relation to this Deed of Pledge or the Pledged Assets charged, or purported to be charged, by it.

6.2 Each Pledgor ratifies and confirms whatever any attorney does or purports to do pursuant to his appointment under this clause.

7. Enforcement of Pledgee's Rights

7.1 If an Event of Default occurs, this Deed of Pledge shall become enforceable and the Pledgee has the right, without giving prior notice to the Pledgors, to enforce its rights against the Pledged Assets and, without being obliged to comply with any procedures, may sell the Pledged Assets through private sale and apply the proceeds towards the discharge of the amounts due by the relevant Pledgor under the Facility.

7.2 In addition, the Pledgee may commence and conduct ordinary enforcement proceedings without the prior obligation to realise the Pledge Assets or to commence enforcement proceedings for the realisation thereof.

7.3 Where several Pledged Assets are subject to this Deed of Pledge and/or where several Utilisations are outstanding, the Pledgee may determine in its discretion the order of foreclosure and the order of the repayment of the Utilisations through the proceeds of foreclosure.

7.4 The Pledgee is also entitled to enforce its rights directly against the Pledgors without foreclosing the Pledged Assets or any other security provided.

8. Miscellaneous

8.1 Continued validity

(a) This Deed of Pledge is a continuing security and shall remain in full force and effect until the date with effect from which the Pledgee confirms to the Pledgors that (i) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and, owing the uncommitted and revolving character of the facility provided for under the Facility Agreement, notwithstanding of any intermediate/temporary payment of the Secured Obligations, (ii) the Borrowers have and/or the Lender has cancelled all of the uncommitted facility provided for under the Facility Agreement and (iii) the Lender is not under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Borrower pursuant to the Finance Documents.

(b) This Deed of Pledge shall continue to be in force and effect in the event of any Pledgor's insolvency, bankruptcy or appointment of a receiver or of a liquidator over any Pledgor's assets.

8.2 Costs and indemnity

(a) Any and all costs and expenses that are incurred or suffered by the Pledgee in executing, perfecting, registering, maintaining or enforcing this Deed of Pledge or its rights thereunder, including, but not limited to, reasonable attorney's fees and all other related costs and expenses (including costs for selling the Pledged Assets by way of private sale) shall be for the account of the Pledgor that caused such costs or expense and the relevant Pledgor shall pay upon first demand.

(b) Each Pledgor hereby agrees to indemnify and hold harmless the Pledgee for all reasonable costs and expenses including, without limitation, legal fees, related disbursements, which are incurred by the Pledgee in contemplation of, or in connection with, the enforcement of, preservation of its rights under this Deed of Pledge in connection with such Pledgor.

8.3 Remedies and Waiver

Failure to exercise or any delay in exercising on the part of the Pledgee any right or remedy under this Deed of Pledge shall neither operate as a waiver thereof nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the

exercise of any other right or remedy. These rights and remedies provided for in this Deed of Pledge are cumulative and not exclusive of any rights or remedies provided by law.

8.4 Amendments

No amendment or change to this Deed of Pledge shall be valid unless made in writing.

8.5 Invalidity

If at any time any provision of this Deed of Pledge is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, neither the validity, legality and enforceability of the remaining provisions, nor the validity, legality or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

8.6 No set-off

All payments required to be made by the Pledgors shall be calculated without reference to any set-off, defence or counterclaim and shall be made free and clear of and without any deduction for or on account of any set-off, defence or counterclaim.

8.7 Communications

All notices, requests and demands given or made under this Deed of Pledge shall be given or made in writing and unless otherwise stated shall be made by fax, e-mail or letter to the fax number, e-mail address or mailing address of the relevant Party identified below, or any substitute mailing address, e-mail address or fax number as the Party may notify to the other from time to time in writing with at least five Business Days' prior notice. For reasons of technical practicality, electronic communication between the Parties or, where confidential information may be disclosed in accordance with clause 14.10 (*Disclosure of confidential information*) of the Facility Agreement, between the Pledgor and a third party, may be sent in unencrypted form, even if the content may be subject to confidentiality and banking secrecy.

UniCredit Bank AG:

Address: Arabellastrasse 14, 81925 Munich, Germany

Contact person: Nicole Oberle / David Wehrhahn

Telephone: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Gerald Metals SA:

Address: Rue de la Gare 29, 1110 Morges, Switzerland

Contact person: Head of Finance

Telephone: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Gerald UK Limited:

Address: One Strand, Grand Buildings, Trafalgar Square, London, WC2N 5HR, United Kingdom

Contact person: Head of Legal Department

Telephone: [REDACTED]

Email: [REDACTED]

8.8 Liability for Pledged Assets

Whenever stored or in transit, it is expressly agreed that the Pledgee shall not assume any responsibility whatsoever for the proper storage of any of the Pledged Assets, including Financed Cargo, pledged in favour of the Pledgee.

8.9 Liability of Pledgor 1

Notwithstanding any other provision of any Finance Document, Pledgor 1 shall not be liable for the obligations of Pledgor 2 under this Deed.

9. Counterparts

This Deed of Pledge 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 of Pledge.

10. Governing law

This Deed of Pledge and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England.

11. Jurisdiction

11.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed of Pledge (including a dispute regarding the existence, validity or termination of this Deed of Pledge) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**"). Each Party agrees that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This Clause 11.1 is for the benefit of the Pledgee only. As a result, the Pledgee will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Pledgee may take concurrent proceedings in any number of jurisdictions.

11.2 Each Pledgor irrevocably appoints Gerald UK Limited a private limited company incorporated under the laws of England (Company No. 03961277) with its offices registered at Third Floor, One Strand, Grand Buildings, and Trafalgar Square, London, England, WC2N5HR, as its agent for service of process in relation to any proceedings before the courts of England and Wales in connection with this Deed of Pledge and agrees that any failure to notify it of the process will not invalidate the proceedings concerned.

IN WITNESS whereof this Deed of Pledge has been duly executed and delivered as a deed on the date stated at the beginning of this Deed of Pledge.

SIGNATURE PAGE

This Deed of Pledge is executed by each Party as a deed and delivered on the date stated at the beginning of this Deed of Pledge.

The Pledgee

EXECUTED and DELIVERED as a DEED by
UniCredit Bank AG

By: 

Name: DAVID WEITZHAHN

Title: AD



Name:

Title:

N. Oberle
DIRECTOR

The Pledgors

EXECUTED and DELIVERED as a DEED by
Gerald Metals SA

By: 

Name: Florian Kaufmann
Title: Authorized Signatory



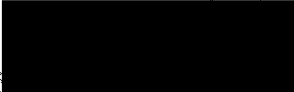
Lucienne Petit
Authorized Signatory

Name:

Title:

each being persons who, in accordance with the laws of Switzerland, are acting under the authority of that company

EXECUTED and DELIVERED as a DEED by
Gerald UK Limited

By: 

Name: Florian Kaufmann
Title: Director Authorized Signatory



Lucienne Petit
Authorized Signatory

Name:

Title: Director/ Secretary