

102171

ROYALTY DEED

THIS ROYALTY DEED, made this 18<sup>th</sup> day of February, 1986, between KENNECOTT CORPORATION, a New York corporation, hereinafter referred to as "Grantor," and THE 23 CORPORATION, INC., a Kansas corporation, whose address is P.O. Box 80269, 6400 Cornhusker Highway, Lincoln, Nebraska 68508, hereinafter referred to as "Grantee."

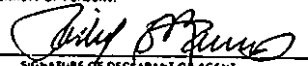
WITNESSETH:

THAT GRANTOR, for and in consideration of the execution, acknowledgement and delivery by Grantee of a Mining Lease leasing to Grantor covering Section 5 (all except the SE 1/4) and Section 7 (all except the SE 1/4), Township 34 North, Range 48 East, Mount Diablo Principal Meridian, North Battle Mountain Mining District, Eureka County, Nevada, for the sole purpose of exploring for, developing, mining, treating, shipping and otherwise exploiting and disposing of any and all ores, metals, minerals and materials (the "Minerals") of any kind or character on, in or under the Leased Premises, except barite, coal, oil, gas and associated hydrocarbons, in accordance with the terms thereof; and in consideration of other good and valuable consideration to Grantor, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto Grantee, its successors and assigns forever, a production royalty in those certain unpatented lode mining claims situate in Section 6, Township 34 North, Range 48 East, Mount Diablo Principal Meridian, Lander County, Nevada, and Section 32, Township 35 North, Range 48 East, Mt. Diablo principal meridian, Eureka and Lander Counties, Nevada, said mining claims more particularly described in Schedule 1 attached to this Royalty Deed and by this reference incorporated herein, together with any and all amendments thereto or relocations and patents thereof (the "Claims"), on gold and silver equal to one percent (1%) of the Net Smelter Returns (as hereinafter defined) from all gold- and silver-bearing ores, leachates, precipitates, concentrates, dore bullion, or other products containing gold and silver values, including byproducts and co-products of the production of such gold- and silver-bearing ores, leachates or other products containing gold and silver values, which are mined from the claims, removed and sold, and on Minerals other than gold and silver which are mined from the Claims, removed and sold, one percent (1%) of the gross revenues received by the Grantor from the sale of such Minerals. Net Smelter Returns shall mean the actual proceeds of sale received by Grantor from the sale of ore, ore concentrates, bullion or other products mined, produced, and sold from the Claims from a smelter, refinery or other ore buyer after the deductions of smelter and/or refining charges, ore or bullion treatment charges, penalties and any and all charges made by the purchaser of ore, bullion, or concentrates, less any and all transportation and insurance costs which may be incurred in connection with the transportation of ore, ore concentrates, bullion or other ore products from the point of last processing by Grantor, less all umpire charges and any taxes, except income taxes, imposed on production or severance of ore or ore concentrates. Production

123/aah/20194-015/T4601-002  
4-FEB-86

Exempt NRS 375.096(9)

DOCUMENTARY TRANSFER TAX \$ - 0 -  
 COMPUTED ON FULL VALUE OF PROPERTY CONVEYED, OR  
 COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES  
REMAINING THEREON AT TIME OF TRANSFER  
UNDER PENALTY OF PERJURY.

  
SIGNATURE OF DECLARANT OR AGENT  
DETERMINING TAX FIRM NAME

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royalties shall accrue at the time of sale. Grantor shall be under no obligation to keep or retain any or all of the mining claims referred to in Schedule 1 attached hereto. Grantor shall be under no obligation to Grantee if any of said mining claims lapse. If Grantor determines to dispose of any of said mining claims, Grantor will advise Grantee and Grantee may accept, within 30 days of such notification, to have Grantor transfer or assign such mining claims to Grantee. If Grantee does not elect to have such mining claims, Grantor may dispose of such mining claims as Grantor elects.

AND THE GRANTOR, for itself, its heirs, executors, administrators and assigns, does covenant and agree to and with the Grantee, its successors and assigns, as follows:

Manner of Payment. Production royalties shall be payable to Grantee quarterly, on the thirtieth day following the last day of the quarter in which the same accrue. Production royalty payments shall be made by Grantor's check payable to the order of Grantee and shall be accompanied by a statement and settlement sheet showing the quantities and grades of metals, ores, minerals and materials and the total amount of concentrates or finished product which shall have been produced from the Claims during the preceding quarter, inclusive of any adjustment which may be made to the production royalty rate, in sufficient detail to explain the calculation of the production royalty payment.

Audit Rights. Any and all calculations of specific gravity, moisture content, grade and weight recovery which are used for purposes of determining production royalty hereunder shall be made on the basis of assay or metallurgical test results in accordance with practices common to the relevant Minerals industry. Such calculations and results, and all matters relative thereto, shall be subject to audit by Grantee or its respective agents. Only one audit for each payment of production royalty shall be permitted, and shall be conducted at normal working hours and in such a manner as will not unreasonably interfere with the ordinary course of business of Grantor, after the Grantee shall have given the Grantor fifteen (15) days' prior written notice thereof. All costs incurred in conducting any audit shall be borne by Grantee, which shall be given access to and shall be permitted to inspect and copy all records, data, books of account, assay journals and certificates, and all other statements and papers only insofar as they may relate to the payment of production royalty herein. In the event Grantee fails to exercise its right to examine and audit within ninety (90) days after the receipt of any payment in respect of production royalty, Grantee shall be precluded from doing so, and such payment shall thereafter be deemed to be a true, correct and complete accounting of all production royalty due the Grantee for the period to which the same shall apply. Grantor shall account for any deficits or excess in the payment made to the Grantee which is confirmed by any audit by appropriately adjusting the next quarterly payment following completion of such audit.

Right to Take Gold and Silver in Kind. In lieu of the royalty payment with respect to gold and silver to which Grantee is entitled hereunder, Grantee may elect annually to take as production royalty its royalty percentage as

determined above by weight, as determined by sample and assay, of gold and/or silver concentrates or metallic gold or silver in a refined or semi-refined state which may be derived from gold- and/or silver-bearing ores mined or extracted from the Claims and removed for recovery during that calendar month. Notice of the Grantee's election to take gold and/or silver in kind shall be given in writing to Grantor no later than ninety (90) days prior to the first day of the calendar year to which the election pertains, and such election shall apply to the ensuing year. In the event the Grantee elects to take gold and/or silver in kind, Grantor shall deliver to Grantee the amount of gold or silver-bearing materials due Grantee at Lessee's mill, smelter or refinery. Delivery shall be deemed conclusively to have been made and possession shall be deemed to have begun at such time as such gold and/or silver is segregated for the account of Grantee at the mill, smelter, or refinery. Title to such gold and/or silver shall pass to Grantee upon delivery, and upon delivery Grantee shall assume the risk and liability for the loss of or damage to such gold and/or silver. Any expenditure incurred by Grantor as a result of Grantee taking gold and/or silver in kind shall be borne by Grantee. Such costs shall be paid to Grantor within thirty (30) days after receipt of invoice from Grantor. Should the Grantee fail to make payment of any such costs hereunder, Grantor may deduct an amount equal in value to the unpaid costs from future royalty payments (and future deliveries of gold or silver in kind) to which Grantee may become entitled.

Weights. It is agreed that all Minerals shall be accurately weighed on suitable scales of adequate capacity for common industrial use in the relevant Minerals industry, and the results thereof shall be entered in and maintained in due form in appropriate records kept for that purpose by Grantor. Weight results shall be certified by Grantor or by its duly-constituted agent or contractor, and copies of such results shall accompany each and every payment of production royalty hereunder. Under no circumstances shall belt scales be used for purposes of determining weights hereunder.

Grantee shall have the right to inspect, review and test the correctness of weight results, inclusive of the manner and methods of weighing, at any time and from time to time and in such a manner as it may see fit to adopt; it being understood and agreed that any errors in these respects, when ascertained, shall be promptly recognized and corrected.

Commingling of Ores. Grantor shall have the right of mixing or commingling, either underground, at the surface, or at processing plants or other treatment facilities, any material containing Minerals mined or extracted from the Claims with any similar substances derived from other lands or properties, provided that the commingling is accomplished only after the material has been fairly and accurately weighed, sampled, and assayed. Grantee shall receive copies of the documents pertaining to weighing, sampling and assaying of commingled ores.

If at any time ores produced from the Claims are mixed and stockpiled with other ores, removals from such stockpiles shall be allocated among the Claims and such other lands on the basis of the actual tonnage contributed

thereto; provided, however, that whenever ores have been mixed and placed into stockpile, removals made therefrom shall be deemed to have come from the earliest contributions thereto so that all removals made from such stockpile shall be from the oldest ores contained therein on a first-in-first-out basis.

Sampling, Assay and Analysis. Any determination of weight, volume, moisture content, amenability, or pay metal or mineral content, and any sampling and analysis, shall be made in accordance with sound mining and metallurgical practices and standard sampling and analysis procedures prevailing in the mining and milling industry. Pursuant to said practices and procedures, and for purposes of determining production royalty hereunder, Grantor agrees to sample sufficient and representative quantities of Minerals which are placed in stockpile prior to concentrating, and any Minerals which are converted into finished product, so that production royalty payable thereon may be ascertained with reasonable accuracy and may be verified by Grantee, or its respective agents, should Grantee elect to inspect the Claims or monitor the operations of Grantor as provided below. Upon written request, Grantor shall furnish Grantee with the results of all drill cuttings and core analyses, and shall remit to Grantee with each payment of production royalty any and all statements, information and data which relate to the calculation of the production royalty payment. Grantor will promptly adjust, in accordance with verified facts and so as to protect the rights of Grantee, all errors and mistakes in sampling, analyzing, commingling, blending, shipping or treating Minerals from the Claims.

Reports. Unless otherwise agreed by Grantee, Grantor will submit to Grantee annually a report giving a brief description of all the results of work performed on the Claims during the preceding year. Grantee and/or its agents and consultants, shall have the right at any reasonable time, but not more frequently than annually, to review all factual, geologic and interpretive reports, statements, information and data with respect to the Claims developed by or on behalf of Grantor and at Grantee's request, Grantor shall provide copies of the same to the Grantee. Grantee shall reimburse the Grantor for the actual photocopy expense incurred with respect to such copies of information and data so provided to the Grantee. All such reports, statements, information and data so furnished by Lessee shall be deemed proprietary and confidential by the parties.

Inspection Rights. At Grantee's risk and expense, Grantee, its employees and authorized agents, shall have the right, exercisable at reasonable times and in a reasonable manner and in conformity with Grantor's safety rules and regulations, to inspect the Claims, Grantor's operations thereon, any facilities of Grantor treating ores derived from the Claims, and any other properties to which any Minerals are taken for stockpiling or storage, and to take samples and make analyses thereof. Grantee shall hold Grantor harmless from all claims for damages sustained by Grantee, its agents and employees, while in or upon such property as herein permitted, unless such death, injury or damage is due to the negligence or willful misconduct of Grantor, its agents or employees.

TO HAVE AND TO HOLD the above-described royalty interest, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has caused its name to be hereunto subscribed on the day and year first above written.

KENNECOTT CORPORATION

By *G. F. Joklik* <sup>208</sup>  
G. F. Joklik, Senior Vice-President

ATTEST:

*R. d. Bin*  
*Assistant* Secretary

[SEAL]

STATE OF *Utah* }  
COUNTY OF *Salt Lake* } ss.

On this *21* day of *February*, 1986, personally appeared before me, a Notary Public, G. F. Joklik, Senior Vice-President of KENNECOTT CORPORATION, a New York corporation, who acknowledged that he executed the above instrument on behalf of said corporation.

*Joan C. Morris*  
Notary Public

[SEAL]

SCHEDULE 1  
TO  
ROYALTY DEED  
BETWEEN  
KENNECOTT CORPORATION  
AND  
THE 25 CORPORATION, INC.

THE CLAIMS

<u>Claim</u>	<u>Monumentation Date</u>	<u>BLM Claim No.</u>	<u>Eureka County Recorder No.</u>
Roger #2	September 7, 1985	NMC 351520	100592
Roger #4	September 7, 1985	NMC 351521	100593
Roger #6	September 7, 1985	NMC 351522	100594
Roger #8	September 7, 1985	NMC 351523	100595
Roger #10	September 7, 1985	NMC 351524	100596
Roger #12	September 8, 1985	NMC 351525	100597
Roger #14	September 8, 1985	NMC 351526	100598
Roger #16	September 8, 1985	NMC 351527	100599
Roger #18	September 8, 1985	NMC 351528	100600
Roger #25	September 12, 1985	NMC 351529	100601
Roger #26	September 12, 1985	NMC 351530	100602
Roger #27	September 12, 1985	NMC 351531	100603
Roger #28	September 12, 1985	NMC 351532	100604
Roger #29	September 12, 1985	NMC 351533	100605
Roger #30	September 12, 1985	NMC 351534	100606
Roger #31	September 13, 1985	NMC 351535	100607
Roger #32	September 13, 1985	NMC 351536	100608
Roger #33	September 13, 1985	NMC 351537	100609
Roger #34	September 13, 1985	NMC 351538	100610
Roger #35	September 13, 1985	NMC 351539	100611
Roger #36	September 13, 1985	NMC 351540	100612
Roger #37	September 13, 1985	NMC 351541	100613
Roger #38	September 13, 1985	NMC 351542	100614
Roger #39	September 13, 1985	NMC 351543	100615
Roger #40	September 13, 1985	NMC 351544	100616
Roger #41	September 13, 1985	NMC 351545	100617
Roger #42	September 13, 1985	NMC 351546	100618

SCHEDULE 1

THE CLAIMS

<u>Claim</u>	<u>Monumentation Date</u>	<u>BLM Claim No.</u>	<u>Eureka County Recorder No.</u>
Roger #1	September 16, 1985	NMC 352213	130439
Roger #3	September 17, 1985	NMC 352214	130440
Roger #9	September 16, 1985	NMC 352215	130441
Roger #11	September 8, 1985	NMC 352216	130442
Roger #13	September 8, 1985	NMC 352217	130443
Roger #15	September 8, 1985	NMC 352218	130444
Roger #17	September 8, 1985	NMC 352219	130445
Roger #19	September 10, 1985	NMC 352220	130447
Roger #20	September 10, 1985	NMC 352221	130448
Roger #21	September 10, 1985	NMC 352222	130449
Roger #22	September 11, 1985	NMC 352223	130450
Roger #23	September 11, 1985	NMC 352224	130451
Roger #24	September 11, 1985	NMC 352225	130452

RECORDED AT REQUEST OF  
 Wilson and Barrows Ltd.  
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OFFICIAL RECORDS  
 EUREKA COUNTY, NEVADA  
 MIN. REALESTATE RECORDER  
 FILE NO. 102171  
 FEE \$ 11.00