

Recording Requested By:

WOODBURN, WEDGE AND JEPPESON

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French American Banking Corporation  
c/o James P. Kelly, Esq.  
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2700 Hospital Trust Tower  
Providence, Rhode Island 02903

135833

LEASEHOLD DEED OF TRUST WITH  
ASSIGNMENT OF RENTS AND ROYALTIES

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS AND ROYALTIES (the "Deed of Trust"), is made as of the 13th day of February, 1991, by TONKIN SPRINGS GOLD MINING COMPANY, a Colorado corporation (herein called "Trustor"), whose mailing address is 1600 Stout Street, Suite 1600, Denver, Colorado 80202, to First American Title Company of Nevada, a Nevada corporation (herein called "Trustee"), for the benefit of FRENCH AMERICAN BANKING CORPORATION, an investment company organized under the laws of the State of New York (herein called "Beneficiary"), whose address is 499 Park Avenue, Third Floor, New York, New York 10022.

W I T N E S S E T H:

That Trustor irrevocably grants, transfers, and assigns to Trustee in trust with power of sale and right of entry and possession a forty-nine percent (49%) undivided interest which Trustor presently has or may hereafter acquire in the lessee's interest in that certain Mineral Lease, dated as of the 1st day of January, 1986, by and among Trustor and Lyle F. Campbell, Julia E. Simpson, and Jean C. Simpson, as disclosed by that certain Memorandum of Mining Lease, dated as of the 1st day of January, 1986, and recorded on August 28, 1986, in Book 148, at Pages 110 through 123, as Instrument Number 104566, Official Records, Eureka County, Nevada, together with all amendments, modifications, supplements, renewals and extensions thereof (the "Lease") and in and to the lessee's interest in all property now or hereafter covered by the Lease (all right, title and interest of Trustor in and to the Lease to be part of and included in the term "Mining Property"), and all other leases and agreements relating to the use or occupancy of the Mining Property entered into by Trustor;

TOGETHER WITH ANY AND ALL OF TRUSTOR'S INTEREST IN

(1) additions, substitutions, amendments, revisions, alterations and relocations of the Mining Property;

(2) water, water rights, and certificates therefor, appurtenant to the Mining Property;

(3) buildings, structures, fences, ditches, roadways, wells, pumps, pipelines, lines, pits, stockpiles, waste piles, heap leach pads, tailings ponds, settling ponds, and other improvements now existing or hereafter constructed on the Mining Property, together with all betterments, additions, substitutions, replacements, revisions and alterations thereof;

(4) Trustor's right, title and interest in all easements, surface agreements, licenses, permits, certificates, memorandums of agreements or understandings, royalty agreements, undertakings, access agreement, rights-of-way agreements and any other similar instrument or document now or hereafter existing and in any way related to the acquisition, construction, use, occupancy, operation, exploration, mining or operation of any of the Mining Property;

(5) royalties, revenues, rents, issues, proceeds, including cash proceeds, and profits thereof;

(6) Trustor's right, title and interest in and to any awards, remuneration, settlements and compensation heretofore or hereafter made by any governmental authority to any of the foregoing;

(7) all furniture, furnishings, fixtures, machinery, apparatus, equipment and goods of whatever nature now located or which may hereafter be located on the Mining Property, including but not limited to any replacements, additions thereto or proceeds, including cash proceeds, therefrom;

(8) all of Trustor's accounts, accounts receivables, contract rights, chattel paper, documents, goods, instruments, money, general intangibles, licenses, consents, permits, variances, certifications and approvals of government agencies, and all other property of Trustor, whether real or personal, tangible or intangible of every nature and description;

(9) Trustor's right, title and interest hereafter acquired in any of the foregoing.

All of said foregoing items, including without limitation the Mining Property and all items listed in subparagraphs (1) through (9) above, are hereinafter referred to as the "Mining Property"; subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply the rents, royalties, issues, revenues and profits.

**A. FOR THE PURPOSE OF SECURING:**

1. Full and timely performance by Trustor of each and every agreement, covenant, term and condition of that certain Amended and Restated Agreement made as of the 13th day of February, 1991, by

and between Trustor and Beneficiary (the "Amended and Restated Agreement"), including but not limited to the full and timely payment by Trustor of all of the monies provided to be paid pursuant to the Amended and Restated Agreement, and all principal, interest and fees and other sums due under that certain Consolidated Note made as of even date by Trustor to Beneficiary pursuant to the Amended and Restated Agreement and all sums due under the Consolidated Obligations, the Existing Agreements, the Security Documents (each as defined in the Amended and Restated Agreement) and any other agreement or document referred to therein or herein by reference, either specifically or generally.

2. Full and timely performance of each agreement of Trustor herein contained.

3. Prompt:

a. Performance by Trustor of all the terms, conditions, agreements and obligations in the Lease.

b. Performance by Trustor of all other agreements, obligations and undertakings including the obligation to pay reserved royalties, arising out of or entered into in connection with the acquisition, construction, use, occupancy, ownership and operation of the Mining Property; and

c. Payment of:

(1) all monies which become due and payable to either the Beneficiary or Trustee under the provisions of this Deed of Trust, the Consolidated Obligations, the Existing Agreements, the Security Documents and any other agreement or document referred to therein or herein by reference, either specifically or generally;

(2) all monies now or hereafter to become due and payable by Trustor to Beneficiary pursuant to any other existing or future agreement, deed of trust, promissory note, guarantee, account agreement, instrument or other document to which Beneficiary and Trustor are parties (whether with or without any other person or persons) including, without limitation, monies now or hereafter to become contingently due and payable and monies now or hereafter to become due and payable by way of damages;

(3) all monies now or hereafter to become due and payable to Beneficiary by Trustor, either alone or in conjunction with any other person, on any account whatsoever including, without limitation, monies now or hereafter to become contingently owing or payable and monies now or hereafter to become owing or payable by way of damages;

(4) all monies which Beneficiary shall lend, pay or advance or become liable in any way whatsoever to lend, pay or advance to, for or on account of Trustor either alone or in conjunction with any other person, or to, for or on account of any other person upon the order or request or under the authority of Trustor, either by direct loans or advances or otherwise whatsoever or by having already entered into or by hereafter entering into any promissory note, bond, indemnity, guarantee, surety or letter of credit or otherwise having already incurred or hereafter incurring liabilities for or on behalf of Trustor or said other person; and

(5) all monies which Beneficiary shall pay or become liable to pay or may have advanced or may hereafter advance to Trustor or on Trustor's behalf.

B. To protect the security of this Deed of Trust, Trustor agrees:

1. To keep the Mining Property in good condition and repair; not to remove or demolish any structure or improvement on the Mining Property except in the ordinary course of business with the prior written consent of Beneficiary; to complete or restore promptly and in a good and workmanlike manner any structure and improvement which may be constructed, damaged, or destroyed thereon; to comply with all laws affecting the Mining Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; and not to commit, suffer or permit any act upon the Mining Property in violation of a law or which could invalidate any insurance coverage on the Mining Property.

2. To provide, maintain and deliver to Beneficiary fire and extended coverage insurance on the structures located on the Mining Property in a sum no less than the value thereof with loss payable to Beneficiary, as Beneficiary's interest appears, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Beneficiary. All such policies shall provide for at least ten (10) days' written minimum cancellation notice to the Beneficiary. Trustor shall furnish the Beneficiary with certificates or other evidence satisfactory to the Beneficiary of compliance with the foregoing insurance provisions.

3. To appear in and defend any action or proceeding purporting to affect the security hereof, and to pay all costs and expenses, including cost of evidence to title and attorneys fees, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose or enforce any provisions of this Deed of Trust.

4. To pay, at least ten (10) days before delinquency, all taxes and assessments affecting the Mining Property and, when due, all encumbrances, charges and liens on the Mining Property or any



part thereof, with interest, which appear to be prior or superior hereto, and all costs, fees and expenses of this Deed of Trust.

5. To pay, immediately and without notice or demand, all sums expended by Beneficiary or Trustee, pursuant to the provisions hereof, with interest from the date of expenditure at the rate of fifteen percent (15%) per annum.

6. If the Beneficiary shall so request while any Event of Default shall exist hereunder and remain uncured, to deposit with the Beneficiary, in trust, each installment of rent due under the Lease, at least five (5) days prior to the date on which the same shall become due and payable under the terms of the Lease, and in such event the Beneficiary agrees to pay or cause to be paid the amount of such installment received by the Beneficiary from the Trustor to the lessor under the Lease.

7. To at all times promptly and faithfully keep, observe and perform, or cause to be kept, observed and performed, all the covenants, agreements and conditions contained in the Lease by the tenant thereunder to be kept, observed and performed, and in all respects conform to and comply with the terms and conditions of the Lease, and Trustor shall not do or permit anything to be done, the doing of which, or refraining from doing anything, or the omission of which, would impair or tend to impair the security of this Deed of Trust, or would be grounds for the landlord under the Lease, or its successors or assigns, to terminate the Lease or declare a forfeiture of the leasehold estate granted thereunder (the "Leasehold Estate"), in whole or in part.

8. To not modify, change, supplement, alter or amend the Lease in any respect, either orally or in writing, and Trustor shall not terminate, cancel, sever or surrender, or suffer the termination, cancellation, severance or surrender of, the Lease or the Leasehold Estate, and shall not waive, execute, condone or in any way release or discharge the landlord under the Lease or its successors or assigns, of or from the obligations, covenants, conditions and agreements by said party to be kept, observed or performed; and Trustor hereby expressly assigns, releases, relinquishes and surrenders unto Beneficiary all its right, power and authority to cancel, terminate, surrender, sever, amend, modify or alter in any respect the terms and provisions of the Lease or the Leasehold Estate and any attempt on the part of Trustor to exercise any such right without the prior written consent of Beneficiary shall be void and of no force or effect.

9. No release or forbearance of any of Trustor's obligations under the Lease, pursuant to the Lease, or otherwise, shall release Trustor of its obligations under this Deed of Trust or any instrument supplemental thereto.

10. Trustor shall give Beneficiary immediate notice of any default under the Lease or of the receipt by Trustor of any notice of default from the landlord under the Lease, or its successors and

assigns, and Trustor shall furnish to the Beneficiary immediately any and all information which Beneficiary may request concerning the performance and observance of all covenants, agreements and conditions contained in the Lease by the tenant thereunder to be kept, observed and performed and concerning the compliance with all terms and conditions of the Lease. Trustor hereby authorizes Beneficiary or its representatives to make investigations and examinations, subject to the terms of the Lease, concerning such performance, observance and compliance, and Trustor, upon request, shall promptly deposit with Beneficiary any and all documentary evidence relating to such performance, observance and compliance and copies of any and all notices, communications, plans, specifications or other instruments or documents received or given by Trustor which may concern or affect the estate of the landlord or the tenant in or under the Lease or in the property thereby demised.

11. In the event of any failure by Trustor to keep, observe or perform any covenant, agreement or condition contained in this Deed of Trust, any performance, observance or compliance by or waive, as between Trustor and Beneficiary, the corresponding default under the terms of this Deed of Trust, and any amount so advanced by Beneficiary and all reasonable costs and expenses incurred in connection therewith (including reasonable attorneys' fees), with interest thereon, shall be a demand obligation of Trustor to Beneficiary, and, to the extent permitted by law, shall be added to the amount secured by this Deed of Trust.

12. Trustor shall not, without Beneficiary's prior written consent, elect to treat the Lease, or the Leasehold Estate as terminated under Subsection 365(h)(1) of Title 11 of the United States Code (the "Bankruptcy Code"), after rejection of the Lease by the landlord thereunder, or its successors and assigns, or by any trustee of such party, and any such election made without such consent shall be void and ineffective. The immediately preceding sentence shall not limit the generality of paragraph B.8. above or the assignment of rights therein set forth.

13. Trustor hereby unconditionally assigns, transfers and sets over to Beneficiary all of Trustor's claims and rights to the payment of damages that may hereafter arise as a result of any rejection of the Lease by the landlord thereunder, or its successors and assigns, or by any trustee of any such party pursuant to the Bankruptcy Code. Beneficiary shall have and is hereby granted the right to proceed, in its own name or in the name of Trustor, in respect to any, claim, suit, action or proceeding relating to the rejection of the Lease (including, without limitation, the right to file and prosecute, to the exclusion of Trustor, any proofs of claim, complaints, motions, applications, notices and other documents) in any case in respect of such landlord, or its successors and assigns, under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the

indebtedness and obligations secured by this Deed of Trust shall have been satisfied and discharged in full. Any amounts received by Beneficiary as damages arising out any such rejection of the Lease shall be applied first to all reasonable costs and expenses of Beneficiary (including, without limitation, reasonable attorneys' fees) in connection with the exercise of its rights under this paragraph and then, in such manner as Beneficiary shall determine, to the reduction of the amount secured by this Deed of Trust.

14. In the event that, pursuant to Subsection 365(h)(2) of the Bankruptcy Code, Trustor seeks to offset against the rent payable under the Lease the amount of any damages caused by the nonperformance by the landlord thereunder, or its successors and assigns, of its obligations under the lease after rejection thereof under the Bankruptcy Code, Trustor shall, prior to effecting such offset, notify Beneficiary of Trustor's intent to do so, setting forth the amounts proposed to be so offset and the basis therefor. Trustor shall have the right to object to all or any part of such offset, and, in the event of such objection, Trustor shall not effect any offset of the amounts so objected to by Beneficiary. If Beneficiary shall have failed to object as aforesaid within ten (10) days after such notice, Trustor may proceed to effect such offset in the amounts set forth in such notice. Neither Beneficiary's failure to object as aforesaid nor any objection or other communication between Trustor and Beneficiary relating to such offset shall constitute an approval by Beneficiary of any such offset. Trustor shall indemnify and hold Beneficiary harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, reasonable attorneys' fees) arising from or relating to any such offset by Trustor.

15. Trustor shall, promptly after obtaining knowledge thereof, give written notice to Beneficiary of any actual or contemplated filing by or against the landlord under the Lease, or its successors and assigns, of a petition under the Bankruptcy Code, and use its best efforts to give prompt oral notice to Beneficiary of such actual or contemplated filing. The aforesaid written notice shall set forth any information available to Trustor concerning the date or anticipated date of such filing, the court in which such petition was filed or is expected to be filed, and the relief sought therein. Trustor shall, promptly after receive thereof, deliver to Beneficiary any and all notices, summonses, pleadings, applications and other documents received by Trustor in connection with any such petition any proceedings relating thereto.

16. In the event that any action, proceeding, motion or notice shall be commenced or filed in respect of the landlord under the Lease, or its successors and assigns, or the Mortgaged Property or any part thereof, in connection with any case under the Bankruptcy Code, Beneficiary shall have, and is hereby granted, the option, exercisable upon notice from Beneficiary to Trustor, to conduct and control any such litigation with counsel of

Beneficiary's choice. Beneficiary may proceed, in its own name or in the name of Trustor, in connection with any litigation, and Trustor agrees to execute any and all powers, authorizations, consents and other documents required by Beneficiary in connection therewith. Trustor shall, upon demand, pay to Beneficiary all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) paid or incurred by Beneficiary in connection with the prosecution or conduct of any such proceedings, and, to the extent permitted by law, such costs and expenses shall be added to the amount secured hereby. Trustor shall not, without any action, suit proceeding or case, or file any application or make any motion, in respect of the Lease in any such case under the Bankruptcy Code.

17. In the event that a petition under the Bankruptcy Code shall be filed by or against Trustor and Beneficiary or any trustee of Trustor shall decide to reject the Lease pursuant to Subsection 365(a) of the Bankruptcy Code, Trustor shall give Beneficiary at least ten (10) days prior written notice of the date on which application shall be made to the court for authority to reject the Lease. Beneficiary shall have the right, but not the obligation, to serve upon Trustor or such trustee within such ten (10) day period a notice stating that (i) Beneficiary demands that Trustor or such trustee assume and assign the Lease to Beneficiary pursuant to Section 3653 of the Bankruptcy Code, and (ii) Beneficiary covenants to cure, or provide adequate assurance of prompt cure of, all defaults and provide adequate assurance of future performance under the Lease. In the event that Beneficiary serves such notice upon Trustor or such trustee, neither Trustor nor such trustee shall seek to reject the Lease and Trustor and such trustee shall comply with such demand within thirty (30) days after such notice shall have been given, subject to Beneficiary's performance of such covenant.

18. Trustor hereby assigns, transfers and sets over to Beneficiary a nonexclusive right to apply to the Bankruptcy Court under Subsection 365(d)(1) of the Bankruptcy Code for an order extending the period during which the Lease may be rejected or assumed after the entry of any order for relief in respect of Mortgagor under Chapter 7 of the Bankruptcy.

19. To appear in and defend any action or proceeding purporting to affect the security hereof, and to pay all costs and expenses, including cost of evidence to title and attorneys' fees and expenses, in any such action or proceeding in which Beneficiary or Trustee (or counsel of their choosing) may appear, and in any suit brought by Beneficiary to foreclose or enforce any provisions of this Deed of Trust.

20. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, without obligation to do so, and upon ten (10) days' written notice or demand upon Trustor, and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either



may deem necessary to protect the security hereof; Beneficiary or Trustee being authorized to enter upon the Mining Property for such purposes, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto and, in exercising any such powers, pay necessary expenses, employ counsel and pay his fees and expenses at the expense of Trustor.

21. To perform all work on the Mining Property in a good workmanlike and minerlike manner.

22. To comply with all applicable laws, rules and regulations of any governmental agency, whether state or federal, including without limitation all laws, rules and regulations relating to (a) protecting the environment and (b) the maintenance and reclamation of the Mining Property to the extent that such is required for activities conducted during the term hereof; to perform all work, including required reclamation, in a timely fashion and to indemnify and hold Beneficiary and Trustee harmless from any liability therefor.

23. To allow no liens to remain on the Mining Property on account of any debt for materials or services furnished to Trustor for the benefit of the Mining Property during the term hereof; provided, however, that Trustor shall not be required to remove any such liens so long as the validity thereof shall be contested in good faith by appropriate proceedings and it shall have posted a bond or other security reasonably satisfactory to Beneficiary with respect to any such lien, so contested, within thirty (30) days of the filing against the Mining Property and provided, further, that payment with respect to such lien shall be made before any of the Mining Property shall be sold in satisfaction thereof. Trustor further covenants that Trustor shall not permit any work or services to be performed on the Mining Property or any materials to be supplied to the Mining Property unless and until such contractor or materialman has waived all right to record a lien under the provisions of NRS Section 108.221 through 108.246, inclusive, as the same may be amended or recodified from time to time, against any portion of the Mining Property and has made such other agreement, including subordination of any such lien to this Deed of Trust as amended from time to time, as Beneficiary may in its discretion deem necessary or desirable.

24. To hold Beneficiary and Trustee harmless and indemnify Beneficiary and Trustee against any claims, losses, damages, expenses and attorneys' fees and expenses, and shall defend Beneficiary and Trustee from any suit, claim, judgment or demand whatsoever, arising out of any failure on the part of Trustor in the exercise of, or compliance with, any of its rights pursuant to this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents, or any other agreement or

document referred to therein or herein by reference, either specifically or generally, or any other agreement, document or understanding between the parties, provided that Beneficiary and Trustee or any person or instrumentality acting on their behalf shall not have been a contributing cause to the event giving rise to such suit, claim, demand or judgment.

25. To maintain at its sole expense liability insurance covering the activities on the Mining Property and naming Beneficiary and Trustee as co-insureds. At Trustor's sole option, such insurance may be by way of indorsement to Trustor's general liability insurance or by separate policy. All such policies shall provide for at least ten (10) days' written minimum cancellation notice to the Beneficiary. Trustor shall furnish the Beneficiary with certificates or other evidence satisfactory to the Beneficiary of compliance with the foregoing insurance provisions. Beneficiary and Trustee shall be provided with a copy of the insurance policy in force within ten (10) days of the receipt of such policy by Trustor.

26. Commencing with the annual assessment work year beginning at 12:00 o'clock noon on September 1, 1990, and ending at 12:00 o'clock noon on September 1, 1991, and thereafter during the term hereof provided that this Deed of Trust has not been released prior to one hundred twenty (120) days before the end of any annual assessment work year, Trustor shall perform annual assessment work required to maintain the unpatented mining claims included in the Mining Property and timely record and file with the United States Bureau of Land Management or furnish to Beneficiary and Trustee for recording and filing the proofs of such performance. If such proofs are delivered to Beneficiary and Trustee for recording and filing, such delivery shall be made prior to August 1 of the applicable year. If Trustor determines to file a Notice of Intent to hold unpatented mining claims, such decision shall be communicated to Beneficiary in writing not later than August 1. Unless the filing of such Notice of Intent is approved by September 1, the filing thereof shall be a breach of the obligations of this paragraph B.26. As to unpatented millsite claims, Trustor shall timely record and file with the United States Bureau of Land Management appropriate Notices of Intent to Hold.

27. In the event of the repeal or substantial modification of the current Mining Law of 1872 during the term of this Deed of Trust, such that the interest of the Trustor is modified or transformed, the Trustor will consult with the Beneficiary to determine how to best preserve the interest of the Beneficiary and Trustee hereunder. The Trustor shall take no action as a result of such modification or transformation without obtaining the prior written consent of Beneficiary. Trustor shall present evidence of the advice of counsel experienced in mining law that the proposed action is desirable to protect the interests of Trustor and will not impair the interests of Beneficiary and Trustee under this Deed of Trust.

28. Trustor will not apply for a patent of any unpatented Mining Claim without the prior written consent of Beneficiary. Trustor shall present evidence that such application will not impair the interests of Beneficiary and Trustee under this Deed of Trust.

29. Trustor shall not amend or relocate any of the unpatented mining claims described as part of the Mining Property, nor shall Trustor locate any mining claim or millsite claim upon any of the Mining Property, without the prior written consent of Beneficiary. In the event Beneficiary consents to any such amendment or relocation, or location of a new mining or millsite claim, Trustor shall execute such amendments to this Deed of Trust as Beneficiary may deem necessary or appropriate.

C. It is mutually agreed that:

1. The parties to this Deed of Trust agree that their rights and obligations under this Deed of Trust and the Amended and Restated Agreement shall be governed by and construed and interpreted in accordance with the internal law of the State of New York, without giving effect to the conflicts-of-law rules and principles of such state. The parties further agree and stipulate that the State of New York has a substantial relationship to the parties and to the underlying transactions secured by this Deed of Trust. Notwithstanding the foregoing, the parties agree that:

a. The procedures governing the enforcement by Beneficiary of the provisional remedies against Trustor, including by way of illustration but not limitation, actions for replevin, for claim and delivery of property, for injunctive relief or for the appointment of a receiver shall be governed by the laws of the State of Nevada;

b. Trustee shall comply with applicable Nevada law to the extent required in connection with the foreclosure of the security interests and liens created hereby; provided, however, that this subparagraph shall in no event be construed to provide that the substantive law of the State of Nevada shall apply to the indebtedness secured by this Deed of Trust or evidenced by the Amended and Restated Agreement, which are and shall continue to be governed by the substantive law of the State of New York. The parties further agree that Beneficiary may enforce its rights under this Deed of Trust and the Amended and Restated Agreement, including, but not limited to, its rights to sue Trustor, to collect any outstanding indebtedness or to obtain a judgment for any deficiency following foreclosure, in accordance with the laws of the State of New York, and Trustor hereby waives, to the maximum extent permitted by the laws of New York, any rights which it may have under Nevada Revised Statutes 40.430 through 40.459, inclusive.

2. Notwithstanding anything contained herein which may be to the contrary, this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated obligations, the Existing Agreements, the Security Documents and any agreement, deed of trust or other document referred to therein or herein by reference, whether specifically or generally, and the transactions contemplated hereby do not and will not constitute, create, indirect, actual or practical ownership of Trustor by Beneficiary, or control, affirmative or negative, direct or indirect, by Beneficiary over the programming, management, or any other aspect of the day-to-day operation of Trustor, which control remains in Trustor, its shareholders and board of directors.

3. By allowing payment of any sum secured hereby after its due date, Beneficiary does not waive its rights either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

4. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and a copy of the Amended and Restated Agreement and the Consolidated Note referred to in Section 4 of the Amended and Restated Agreement marked "Paid" and certified to be true and correct copies by the Beneficiary to Trustee, and upon payment of its fees, Trustee shall reconvey, without warranty, the real property then held hereunder. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

5. Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of this Deed of Trust, to collect the rents, royalties, issues and profits of the Mining Property. Prior to the occurrence of an Event of Default as herein defined, Trustor shall have a license to collect and retain such rents, royalties, issues and profits as they become due and payable, which license shall be terminable at the sole option of Beneficiary upon the occurrence of any Event of Default.

6. Upon the occurrence of any Event of Default as herein defined or of any default under the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, Beneficiary may, to the extent allowable under Nevada law and upon ten (10) days' written notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness or obligations secured hereby, enter upon and take possession of the Mining Property or any part thereof in its own name, sue for or otherwise collect such rents, royalties, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable



attorneys' fees and expenses, upon any indebtedness or obligation secured hereby, in such order as Beneficiary may determine.

7. It is understood and agreed that neither the foregoing assignment of rents and royalties, issues and profits to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies under this Deed of Trust, shall be deemed to make Beneficiary "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Mining Property or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Beneficiary, in person or by agent, assumes actual possession thereof; nor shall appointment of a receiver for the Mining Property by any court, either at the request of Beneficiary or by agreement with Trustor, or the entering into possession of the Mining Property or any part thereof by such receiver, be deemed to make Beneficiary "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Mining Property or the use, occupancy, enjoyment or operation of all or any portion thereof. Further, the entering upon and taking possession of the Mining Property, the collection of such rents, royalties, issues and profits, and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder, or invalidate any act done pursuant to such notice.

8. The following shall be deemed to be events of default ("Events of Default") hereunder:

a. Failure to pay when due and payable or within two (2) business days after the due date for payment any monies payable from time to time by Trustor pursuant to this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally;

b. Failure to pay any principal, interest and fees or other sums due under the Consolidated Note payable from time to time by Trustor, whether at the due date thereof or at a date fixed for prepayment or acceleration or otherwise, and such failure shall continue unremedied for two (2) business days after written notice of the default given to Trustor by Beneficiary;

c. Failure by Trustor to timely perform or observe any covenant, agreement or provisions contained in this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, or any existing or future agreement, deed of trust or other document to which Trustor and Beneficiary are parties (whether with or without any other

person or person) and such failure, if capable of remedy without prejudice to Beneficiary, is not remedied to the satisfaction of Beneficiary within five (5) days after written notice of the default is given to Trustor by Beneficiary;

d. Breach of any representation or warranty made by Trustor in or in connection with the execution, delivery or performance of this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreement, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, in any respect which Beneficiary considers to be material as of the date on which it was made or deemed made;

e. Breach of any statement made by Trustor or in or pursuant to this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any agreement or other document referred to therein or herein by reference, either specifically or generally, or in any certificate, notification or report furnished pursuant to said documents in any respect which Beneficiary considers material;

f. Default with respect to any evidence of indebtedness of Trustor, if the effect of such default is to accelerate the maturity of such indebtedness or permit the holder thereof to cause such indebtedness to become due prior to the stated maturity thereof, or if any indebtedness of Trustor is not paid, when due and payable, whether at the due date thereof or by acceleration or otherwise, and such failure shall continue unremedied for five (5) days after Beneficiary gives notice to Trustor of such failure;

g. Institution of judicial or nonjudicial foreclosure or other proceedings to enforce any other deed of trust or any junior security interest or other lien or encumbrance of any kind upon the Mining Property or any portion thereof, including proceedings relating to the underlying property;

h. Should Trustor (i) apply for, consent to, or suffer the appointment of a custodian, receiver, trustee, or liquidator of it or any of its property, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, or (iv) file, or have filed against it, a petition in bankruptcy, or a petition or an answer seeking reorganization or any arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment or debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceedings under any such law, or corporate action

shall be taken for the purpose of effecting any of the foregoing;

i. Entry of any judgment against Trustor, and the same shall remain undischarged for a period of thirty (30) consecutive days, during which execution shall not be effectively stayed on appeal or dismissed on a claim not fully covered by insurance in an amount which, in the opinion of the Beneficiary, if the Trustor were required to pay such amount, would adversely affect the Trustor's ability to pay its indebtedness under the Amended and Restated Agreement, the Consolidated Note, the Consolidated obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally;

j. Revocation or material variance of any government approval required for the execution and performance of Trustor's obligations under this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, to the prejudice of Trustor under this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally;

k. This Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, ceases to be in full force and effect or the validity, binding effect or enforceability thereof or any provision thereof has been denied or disaffirmed by any party thereto (other than Beneficiary) or is declared or becomes void, voidable or unenforceable;

l. Without the prior written consent of Beneficiary, Trustor ceases or threatens to cease to carry on business or a substantial part of such business, property or assets is seized (other than with payment of fair and adequate compensation therefor);

m. Failure to perform or observe any material covenant, agreement or obligation undertaken by Trustor in any agreement, lease or license pertaining to the business conducted on the Mining Property (including, without limitation, mineral leases, licenses and tenements), and such default, if capable of remedy without prejudice to Beneficiary, is not remedied to the satisfaction of Beneficiary within seven (7) days after written notice of the default is given to Trustor by Beneficiary;

n. Cancellation, surrender or voiding of any material agreement, lease, license or tenements pertaining to the business

conducted on the Mining Property (except a surrender of an agreement, lease or license conditional upon the grant of a substitute, substantially equal and similar document) or, in the opinion of Beneficiary, the terms thereof are materially varied to the prejudice of the holders or persons (including Trustor) entitled to the benefit thereof except in accordance with the terms thereof;

o. Occurrence of any change in the financial position of Trustor which in the opinion of Beneficiary adversely affects in a material way the ability of Trustor to observe and perform its obligations under this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally.

9. If any Event of Default shall have occurred and be continuing:

a. Beneficiary may execute or cause the Trustee to execute a written notice of such default and of Beneficiary's election to cause the Mining Property to be sold to satisfy all agreements and obligations hereunder, and shall cause such notice to be recorded in the Office of the Recorder of each county wherein the Mining Property or some part thereof is situated.

b. Notice of sale having been given as then required by law, and not less than the time then required by law having elapsed after recordation of such notice of default, Trustee, without demand on Trustor, shall sell the Mining Property at the time and place of sale fixed by it in said Notice of Sale, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States of America, payable at time of sale.

c. Trustee may postpone sale of all or any portion of the Mining Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement.

d. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters of facts shall be conclusive proof of the truthfulness thereof.

e. Any person, including Trustor, Trustee or Beneficiary as herein defined, may purchase at such sale.



f. After deducting all costs, fees and expenses of Trustee and of this trust, including cost of evidence of title and reasonable counsel fees and expenses in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof not then repaid with accrued interest at a rate of four percent (4%) greater than the Prime Rate (as defined in the Amended and Restated Agreement), computed from the date due and calculated on the basis of the actual number of days elapsed over a year of three hundred sixty (360) days; provided however that, if such rate be unascertainable or otherwise declared invalid by any court of competent jurisdiction, then at the rate of eighteen percent (18%) per annum, to payment of all other sums then secured hereby and, the remainder, if any, to the persons entitled thereto.

g. Notwithstanding anything to the contrary contained herein, any default by Trustor under any of this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, shall constitute a default under each and every of the other agreements or documents described herein.

10. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. In this Deed of Trust whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

11. Beneficiary may, from time to time as provided by statute or by a writing signed and acknowledged by Beneficiary and recorded in the Office of the County Recorder of the county or counties in which the Mining Property or any part thereof as is then affected by this Deed of Trust is situated, appoint another Trustee in place and stead of Trustee herein named, and thereupon, the Trustee herein named shall be discharged and the Trustee so appointed shall be substituted as Trustee hereunder, with the same effect as if originally named Trustee herein.

12. Trustor shall not sell, assign, convey, mortgage, pledge, hypothecate or otherwise transfer (i) all or any part of the Mining Property, (ii) all or any part of Trustor's interest therein, or (iii) all or any part of Trustor's interest in the structures or improvements then located on the Mining Property without first obtaining the written consent of Beneficiary, and any attempt to do so shall be void. Any violation or attempted violation of the provisions of this paragraph C.12. shall permit Beneficiary to declare, at Beneficiary's option and with notice to Trustor, a default hereunder.

13. All representations and warranties of the Trustor contained herein or made in connection herewith shall survive the making of, and shall not be waived by, the execution and delivery of this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated obligations, the Existing Agreements, the Security Documents or any other agreement or document referred to therein or herein by reference, either specifically or generally, or any other agreement, document or understanding between the parties, the making or repayment of any loan, or any investigation by the Beneficiary. All covenants and agreements of the Trustor contained herein shall continue in full force and effect from and after the date hereof so long as it may borrow hereunder and until payment in full of the Note, interest thereon and full and complete performance of all other obligations of the Trustor and each other party thereto (other than Beneficiary) under this Deed of Trust, the Amended and Restated Agreement, the Consolidated Note, the Consolidated Obligations, the Existing Agreements, the Security Documents any other agreement or document referred to therein or herein by reference, either specifically or generally. Without limitation, it is understood that all obligations of the Trustor to make payments to or indemnify the Beneficiary shall survive the payment in full of the Consolidated Note and performance of all other obligations of the Trustor thereunder and hereunder.

14. EACH OF THE PARTIES WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS DEED OF TRUST OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN.

15. No modification or waiver of any provision of this Deed of Trust, nor consent to any departure of Trustor therefrom, shall be effective unless the same shall be in writing signed by the parties hereto. A written consent shall be effective only in the specific instance, and for the purpose, for which given. No notice to, or demand on Trustor, in any one case, shall entitle Trustor to any other or future notice or demand in the same, similar or other circumstances.

16. Neither any failure nor any delay on the part of Beneficiary in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or future exercise, or the exercise of any other right, power or privilege.

17. Any provision of this Deed of Trust which is prohibited or unenforceable shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction.

18. All notices and other communications provided for herein shall be given or made by telex, telegraph, telecopy or in writing

or delivered to the intended recipient at the addresses set forth in the Amended and Restated Agreement. Except as otherwise provided in this Deed of Trust or the Amended and Restated Agreement, all such communications shall be deemed to have been duly given when transmitted by telex or telecopy, delivered to the telegraph office or personally delivered or, in the case of a notice sent by Federal Express or other similar delivery service, upon receipt, in each case given as aforesaid.

TRUSTOR:

TONKIN SPRINGS GOLD MINING COMPANY,  
a Colorado corporation

By William Reid

Name: William Reid

Its: President

STATE OF California )  
COUNTY OF San Francisco )

ss.

On the 12<sup>th</sup> day of February, 1991, personally appeared before me, a notary public, William Reid, personally known (or proved) to me to be the person whose name is subscribed to the above instrument who acknowledged that he executed the instrument.

Marcia D. Miller  
Notary Public



BOOK 220 PAGE 229  
OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
Homestake Mining  
'91 FEB 13 P4:43  
Co -  
EUREKA COUNTY, NEVADA  
M.N. REBALEATI, RECORDER  
FILE NO. FEE \$23 -

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