155358

No. 2

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made this 30th day of September, 1994 between SHAWMUT BANK CONNECTICUT, NATIONAL ASSOCIATION, with an office at 777 Main Street, Hartford, Connecticut 06115, not in its individual capacity, but solely as Owner Trustee under Trust Agreement No. 2, dated as of July 15, 1994 (Trust Agreement No. 2), with Philip Morris Capital Corporation (the Owner Participant), as "Lessor", and NEWMONT GOLD COMPANY, a Delaware corporation, with an office at One United Bank Center, 1700 Lincoln Street, Denver, Colorado 80203, as "Lessee".

1. DEFINITIONS: All capitalized terms used and not otherwise specifically defined herein shall have the meaning assigned in Appendix A hereto.

2. LEASE OF UNDIVIDED INTEREST, ETC.: Upon and subject to the terms and conditions of the lease, dated as of September 30, 1994, between the Lessor and the Lessee, together with any Lease Supplement (the lease and the Lease Supplements, together, the "Lease") (i) the Lessor has leased to the Lessee, and the Lessee has leased from the Lessor, the Undivided Interest and (ii) the Lessor subleased to the Lessee, and the Lessee subleased from the Lessor, the Lessor's interest in the Site Interest. The term of the Lease (the "Lease Term") began on September 30, 1994 and shall end on September 30, 2015, or such earlier or later date on which, or to which, the Lease shall have been terminated, extended or renewed.

3. CHARACTER OF THE FACILITY: It is the express intention of the Lessor and the Lessee that the Facility and the Undivided Interest shall at all times be and remain personal property as to all persons and for all purposes to the fullest extent permitted by Applicable Law. In the event that, notwithstanding the foregoing, a court of competent jurisdiction shall make a final determination that some part or portion of the Undivided Interest constitutes real property under Applicable Law, then the Lease shall be deemed to be and shall be construed as a divisible and severable contract between the Lessor and the Lessee for the leasing of respectively (i) the part or portion of the Undivided Interest so determined to constitute real property under Applicable Law, and (ii) the remainder of the Undivided Interest, all to the same extent and with the same

force and effect as though a separate lease had been entered into by the Lessor and the Lessee in respect of the part or portion of the Undivided Interest so determined to constitute real property and the remainder of the Undivided Interest and the amount of each installment of rent payable in respect of the part or portion of the Facility so determined to constitute real property shall bear the same relationship to the aggregate amount of such installment of rent as the cost to the Lessor of such part or portion of the Undivided Interest so determined to constitute real property shall bear to Facility Cost.

4. RENT: The Lessee shall pay rent to the Lessor as provided in the Lease, the amount of which rent may be adjusted from time to time.

5. NET LEASE: The Lease is a net lease and the Lessee's obligation to pay all rent under the Lease, and the rights of the Lessor in and to the rent, are absolute and unconditional and are not affected by any event, circumstance or reason whatsoever. The Lessee waives, to the extent permitted by Applicable Law, any and all rights that it may now have or that at any time hereafter may be conferred on it, by statute or otherwise, to terminate, cancel, quit or surrender the Lease except in accordance with the terms of the Lease. If for any reason whatsoever the Lease shall be terminated in whole or in part by operation of law or otherwise, except as specifically provided in the Lease, the Lessee nonetheless agrees to pay to the Lessor an amount equal to each installment of rent at the time such payment would have become due and payable in accordance with the terms of the Lease had the Lease not been terminated in whole or in part. Each payment of rent made by the Lessee shall be final and, except as provided in the Lease, the Lessee shall not seek to recover all or any part of such payment from the Lessor or any other Person for any reason whatsoever.

6. RETURN OF THE UNDIVIDED INTEREST: Upon the expiration of the Lease Term or the termination of the Lease pursuant to the terms the Lease, the Lessee shall surrender possession of the Undivided Interest to the Lessor, subject to the terms and provisions of the Ground Lease and Easement and the Facility Agreements. At the time of such return the Undivided Interest shall be free and clear of all Liens (other than Lessor's Liens, Owner Participant's Liens and the Lien of the Ground Lease and Easement and the Facility Agreements) and the Facility shall be in the condition and

repair required by the Lease and shall be capable of operating in compliance with all Applicable Laws and Governmental Actions relating to the Facility. At the time of such return, the Lessee shall provide the Lessor with spares and other supplies used in the operation of the Facility in amounts sufficient to enable the User to operate the Facility consistent with Prudent Mining Industry Practice and all Applicable Laws.

7. <u>ASSIGNMENT OR SUBLEASE</u>: Except as provided in the Lease, the Lessee may not assign its leasehold interest under the Lease without the Lessor's prior written consent.

8. <u>LEASE RENEWALS</u>: The Lease Term is subject to extension by the exercise by the Lessee of certain renewal options contained in the Lease.

9. <u>REMEDIES</u>: (a) In addition to any other remedies that may be available under Applicable Law, upon the occurrence of any Event of Default and so long as the same shall be continuing, the Lessor may, at its option, declare the Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall elect:

(1) the Lessor may, by notice to the Lessee, rescind or terminate the Lease and exercise its rights under the Facility Agreements;

(2) the Lessor may sell the Undivided Interest, together with its interest under the Ground Lease and Easement, the Facility Agreements and any other Transaction Document to which the Lessor is a party, or any part thereof, at public or private sale, as the Lessor may determine, free and clear of any rights of the Lessee in the Undivided Interest and without any duty to account to the Lessee with respect to such action or inaction or any proceeds with respect thereto (except to the extent required by paragraph (4) below if the Lessor shall elect to exercise its rights thereunder), in which event the Lessee's obligation to pay rent under the Lease for periods commencing after the date of such sale shall be terminated (except to the extent that rent is to be included in computations under paragraph (3) or (4) below if the Lessor shall elect to exercise its rights thereunder);

(3) the Lessor may, whether or not the Lessor shall have exercised or shall thereafter at any time exercise its rights under paragraph (2) above, demand, by written notice to the Lessee specifying a Rent Payment Date not earlier than 10 days after the date of such notice, that the Lessee pay to the Lessor, and the Lessee shall pay to the Lessor, on the Rent Payment Date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the rent due after the Rent Payment Date specified in such notice), any unpaid rent due through the Rent Payment Date specified in such notice plus whichever of the following amounts the Lessor, in its sole discretion, shall specify in such notice (together with interest on such amount at the interest rate specified in the Lease from the Rent Payment Date specified in such notice to the date of actual payment):

(i) an amount equal to the excess, if any, of Stipulated Loss Value, computed as of the Rent Payment Date specified in such notice, over the Fair Market Rental Value of the Undivided Interest (determined on the basis of the actual condition of the Facility) until the end of the Basic Lease Term or the then applicable Renewal Term, after discounting such Fair Market Rental Value semiannually to present value as of the Rent Payment Date specified in such notice at a rate equal to the Overdue Rate as of the date of such notice;

(ii) an amount equal to the excess, if any, of such Stipulated Loss Value over the Fair Market Value of the Undivided Interest (determined on the basis of the actual condition of the Facility) as of the Rent Payment Date specified in such notice;

(iii) an amount equal to the greater of (A) such Stipulated Loss Value, (B) such discounted Fair Market Rental Value or (C) such Fair Market Value (assuming, in the case of (B) and (C) above, that the Facility was then maintained in accordance with the Lease) and, in such event, upon full payment by the Lessee of all sums due under the Lease, the Lessor shall, at its option, either (x) exercise its reasonable best efforts promptly to sell the Undivided Interest together with its interest under the Facility Agreements and any other Transaction Document to which the Lessor is a party, and pay over to the Lessee the sale proceeds up to the amount claimed under (A), (B) or (C) above and actually paid by the Lessee to the Lessor, or (y) deliver to the Lessee (AA) a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Undivided Interest free and clear of all Lessor's Liens and Owner Participant's Liens, but without recourse or warranty, and (BB) the agreement of the Lessor terminating its interest under the Facility Agreements and any other Transaction Document to which the Lessor is a party, whereupon the Lease shall terminate, except that indemnity obligations of the Lessee that relate to the period prior to the date of termination shall survive; or

(iv) an amount equal to the excess of (A) the present value as of the Rent Payment Date specified in such notice of all installments of rent until the end of the Basic Lease Term, discounted semiannually at a rate equal to the Average Applicable Rate, over (B) the present value as of such Rent Payment Date of the Fair Market Rental Value of the Undivided Interest (determined on the basis of the actual condition of the Facility) until the end of the Basic Lease Term, discounted semiannually at a rate equal to the Average Applicable Rate; or

(4) if the Lessor shall have sold the Undivided Interest together with its interest under the Ground Lease and Easement, the Facility Agreements and any other Transaction Document to which the Lessor is a party pursuant to paragraph (2) above, the Lessor, in lieu of exercising its rights under paragraph (3) above with respect to the Undivided Interest and its interest under the Facility Agreements and any other Transaction Document to which the Lessor is a party, may, if it shall so elect, demand that the Lessee pay to the Lessor, and the Lessee shall pay to the Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty (in lieu of rent due for periods commencing after the next Rent Payment Date following the date of such sale), any unpaid rent and rent due through such Rent Payment Date, plus the amount of any deficiency between the sale proceeds and

Stipulated Loss Value, computed as of such Rent Payment Date, together with interest at the Overdue Rate on the amount of such rent and such deficiency from the date of such sale until the date of actual payment.

(b) No rescission or termination of the Lease, in whole or in part, or repossession of the Undivided Interest or exercise of any remedy under paragraph (a) above, shall, except as specifically provided therein, relieve the Lessee of any of its liabilities and obligations under the Lease. In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid rent due under the Lease before, after or during the exercise of any of the foregoing remedies, including all reasonable legal fees and other costs and expenses incurred by the Lessor or the Indenture Trustee by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto.

10. RIGHT TO PERFORM FOR LESSEE: If the Lessee shall fail to make any payment of rent to be made by it under the Lease or shall fail to perform or comply with any of its other agreements contained in the Lease, the Lessor, the Owner Participant or the Indenture Trustee may, but shall not be obligated to, make such payment or perform or comply with such agreement, and the amount of such payment and the amount of all costs and expenses (including reasonable attorneys' and other professionals' fees and expenses) of the Lessor, the Owner Participant or the Indenture Trustee incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Overdue Rate, shall be deemed rent, payable by the Lessee upon demand.

11. TRUE LEASE: The Lease constitutes an agreement of lease as to the Undivided Interest, and an agreement of sublease as to the Lessor's interest in the Site Interest, and nothing in the Lease shall be construed as conveying to the Lessee any right, title or interest in or to the Facility (including the Undivided Interest) or the Site Interest (including such Lessor's interest), except as lessee or sublessee.

12. PROVISIONS BINDING ON SUCCESSORS AND ASSIGNS: The Lease provides that all of the agreements, covenants, representations and warranties are binding upon and inure the benefit of Lessor and its successors and permitted

assigns, and the Lessee and its successors and permitted assigns.

13. PURCHASE FOR INVESTMENT: The Lessor hereby represents and warrants to the Lessee that the Lessor has purchased the Undivided Interest for investment and not with any present intention to resell such Undivided Interest, provided that the disposition by the Lessor of the Undivided Interest shall at all times be within its control.

14. PURPOSE OF MEMORANDUM OF LEASE: This Memorandum of Lease contains a summary of certain terms and provisions of the Lease and is qualified in its entirety by reference to the Lease. This Memorandum of Lease is prepared for the purpose of recording and it in no way modifies the provisions of the Lease referred to in Paragraph 2.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first above written.

SHAWMUT BANK CONNECTICUT, N.A.,
not in its individual capacity,
but solely as Owner Trustee under
Trust Agreement No. 2, dated as of
July 15, 1994, with Philip Morris
Capital Corporation

By: ______________________
Name: Robert L. Reynolds
Title: Assistant Vice President

NEWMONT GOLD COMPANY,
as Lessee

By: ______________________
Name: Patricia Flanagan
Title: Treasurer

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On September 28, 1994, personally appeared before me a Notary Public in and for said State, Robert L. Reynolds ____________________, personally known or proved to me to be the person whose name is subscribed to the foregoing document and who acknowledged that (s)he executed the same on behalf of Shawmut Bank Connecticut, N.A.

SEAL Affixed

Melissa J. Marasigan
Notary Public

MELISSA J. MARASIGAN
Notary Public, State of New York
No. 31-5030506
Qualified in New York County
Commission Expires July 18, 1996

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On September 28, 1994, personally appeared before me a Notary Public in and for said State, Patricia Flanagan ____________________, personally known or proved to me to be the person whose name is subscribed to the foregoing document and who acknowledged that (s)he executed the same on behalf of Newmont Gold Company.

SEAL Affixed

Melissa J. Marasigan
Notary Public

MELISSA J. MARASIGAN
Notary Public, State of New York
No. 31-5030506
Qualified in New York County
Commission Expires July 18, 1996

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APPENDIX A

"Additional Equity Investment" shall mean an additional direct investment into the Facility made by the Lessor with funds provided by the Owner Participant.

"Applicable Law" shall mean all laws, including Federal, state and local laws, ordinances, judgments, decrees, injunctions, writs and orders, and rules, regulations, orders, interpretations, licenses and permits of any Governmental Authority.

"Appraisal Procedure" shall mean a procedure whereby, the Lessor and the Lessee having failed to agree, two independent appraisers, one chosen by the Lessee and one by the Lessor, shall mutually agree upon the determinations then the subject of appraisal. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other appointing its appraiser within 15 days after receipt from the other of a written notice appointing its appraiser. If one party shall fail to appoint its appraiser within 15 days after receipt from the other party of a written notice appointing its appraiser, the determination of the single appraiser shall be final. If within 30 days after appointment of the two appraisers they are unable to agree upon the amount in question, a third independent appraiser shall be chosen within ten days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by the American Arbitration Association, or any organization successor thereto, from a panel of appraisers having experience in the business of operating a mining facility and a familiarity with equipment used or operated in such business. The decision of the third appraiser so appointed and chosen shall be given within 30 days after the selection of such third appraiser. If three appraisers shall be appointed and the determination of one appraiser is disparate from the middle determination by more than twice the amount by which the other determination is disparate from the middle determination, then the determination of such appraiser shall be excluded, the remaining two determinations shall be averaged and such average shall be binding and conclusive on the Lessor and the Lessee; otherwise the average of all three determinations shall be binding and conclusive on the Lessor and the Lessee.

"Assignment of Contracts" shall mean the Assignment of Contracts, dated September 30, 1994, between the Lessee and the Lessor.

"Average Applicable Rate" shall mean the weighted average interest rate borne by Notes issued on September 30, 1994.

"Basic Lease Commencement Date" shall mean July 5, 1995.

"Basic Term" or "Basic Lease Term" shall mean the period commencing on the Basic Lease Commencement Date and ending on September 30, 2015, or such shorter period as may result from earlier termination of the Lease as provided in the Lease.

"Bill of Sale" shall mean a Bill of Sale and Notice of Severance, dated September 30, 1994, between Lessee and Lessor.

"Business Day" shall mean any day other than a Saturday or Sunday or other day on which banks in New York, New York, Hartford, Connecticut or Chicago, Illinois are authorized to remain closed.

"CERCLA" shall have the meaning given such term in the definition of "Environmental Law".

"Components" shall mean appliances, parts, instruments, appurtenances, accessories, furnishings, equipment and other property of whatever nature that may from time to time be incorporated in the Facility.

"Deed of Trust" shall mean the Deed of Trust made by the Lessor in favor of the Indenture Trustee securing the Lessor's obligations under the Notes.

"Default" shall mean an event which, after giving of notice or lapse of time, or both, would become an Event of Default.

"Easement" shall mean the easement granted by the Lessee to the Lessor under and pursuant to the Ground Lease and Easement.

"Environmental Law" shall mean any Applicable Law which is applicable to an owner or operator of the Facility, an owner or lessee of the Site Interest or any waste or other by-products of the Facility and which relates to the pollution or protection of the environment (including ambient air, surface water, groundwater, land, surface, and subsurface strata) or Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, the Clean Water Act, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act and the Atomic Energy Act.

"Event of Default" shall mean an "Event of Default" as defined in the Lease:

"Facility" shall mean the refractory gold ore treatment facility located approximately six miles north of Carlin, Nevada, as more particularly described in Annex 1 attached hereto, together with any Modifications and all Components.

"Facility Agreements" shall mean the Support Agreement, the Assignment of Contracts, the Ground Lease and Easement and any other agreement, permit or license or Governmental Action to which the Company is a party and which are necessary for the operation of the Facility.

"Facility Cost" shall mean the Lessor's Share of $343,199,000.00.

"Facility Site" shall mean the Site Interest (as to which the Lessor has a ground lease interest under the Ground Lease and Easement) and the other land described in Exhibits A and D to the Ground Lease and Easement (with respect to which the Lessor is the grantee of an easement under the Ground Lease and Easement).

"Fair Market Rental Value" or "Fair Market Value" of any property or service as of any date shall mean the cash rent or cash price obtainable in an arm's-length lease, or sale or supply, respectively, between an informed and willing lessee or buyer (under no compulsion to lease or purchase) and an informed and willing lessor or seller or supplier (under no compulsion to lease or sell or supply) of the property or service in question, and shall, in the case of the Facility, be determined (except as otherwise set forth in the Lease) on the basis that (i) the Facility has been maintained in accordance with, and the Lessee has complied with, the requirements of the Lease and the other Transaction Documents, (ii) the lessee or the buyer shall have rights in, or an assignment of, the Transaction Documents (including, without limitation, the Support Agreements) to which the Lessor is a party and (iii) the Lessee has complied with the requirements of the Lease and each Transaction Document to which the Lessee is a party. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental Value or Fair Market Value, as the case may be, such Fair Market Rental Value or Fair Market Value shall be determined in accordance with the Appraisal Procedure.

"First Chicago" shall mean The First National Bank of Chicago, a national banking association, in its individual capacity unless the context requires otherwise.

"GAAP" shall mean generally accepted accounting principles in the United States as in effect from time to time.

"Governmental Actions" shall mean all authorizations, consents, approvals, waivers, exceptions, variances, filings and declarations of or with, any Governmental Authority (other than routine reporting requirements the failure to comply with which will not affect the validity or enforceability of any of the Transaction Documents or have a material adverse effect on the transactions contemplated by the Participation Agreement), and shall include, without limitation, those siting, environmental and operating permits and licenses which are required for the use and operation of the Facility, including the Undivided Interest.

"Governmental Authority" shall mean any Federal, state, county, municipal, regional or other governmental or taxing authority, agency, board or court.

"Governmental Rules" shall mean statutes, laws, rules, codes, ordinances, regulations, permits, certificates and orders of any Governmental Authority, including, without limitation, those pertaining to health, safety, the environment or otherwise.

"Ground Lease and Easement" shall mean the Ground Lease and Easement, dated September 30, 1994, among the Lessor, the Lessee and the Other Owner Trustee and pursuant to which the Lessor and the Other Owner Trustee will, subject to the conditions set forth therein, lease from the Lessee the Site Interest and accept a grant by the Lessee of the Easement.

"Hazardous Materials" shall mean any hazardous substance under Section 101(14) of CERCLA.

"Indenture" shall mean the Trust Indenture and Security Agreement, dated as of July 15, 1994, between the Lessor and the Indenture Trustee.

"Indenture Estate" shall have the meaning set forth in the Indenture.

"Indenture Supplement" shall mean any supplemental Indenture entered into in accordance with the terms of the Indenture (including, as a result of a Supplemental Financing).

"Indenture Trustee" shall mean The First National Bank of Chicago, a national banking association, not in its individual capacity, but solely as Indenture Trustee under the Indenture, and each successor as Indenture Trustee under the Indenture.

"Interim Term" shall mean the period, if any, from, and including, September 30, 1994 to, but excluding, the Basic Lease Commencement Date, or such shorter period as may result from earlier termination of the Lease as provided in the Lease.

"Investment" shall have the meaning set forth in the Participation Agreement.

"Lease Supplement" shall mean a supplement to the Lease for purposes of (i) adjusting rent, Stipulated Loss Value, and Termination Value pursuant to the Lease, (ii) adding the Lessor's Share in any Modification, if title thereto shall vest in the Lessor pursuant to the terms of the Lease, (iii) effecting Supplemental Financings, Refunding of the Notes and Additional Equity Investments, or (iv) otherwise changing or modifying the terms of the Lease, all in accordance with and subject to the terms of the Lease.

"Lessor's Liens" shall mean Liens upon the Trust Estate (other than Permitted Liens described in clauses (a) and (c) through (e) of the definition of such term) which result from acts of, or any failure to act by, or as a result of claims against, Shawmut or the Lessor, attributable to Shawmut, unrelated either to the ownership of the Undivided Interest, the administration of the Trust Estate or the transactions contemplated by the Transaction Documents.

"Lessor's Share" shall mean 25%.

"Lien" shall mean any mortgage, pledge, security interest, encumbrance, lien or charge of any kind, including, without limitation, any conditional sale or other title retention agreement, any lease in the nature thereof or the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

"Modifications" shall mean alterations, modifications, additions and improvements to the Facility (including the Undivided Interest) the cost of which is required to be capitalized in accordance with GAAP.

"Notes" or "Notes" shall mean the Notes and any Supplemental Financing Notes issued or to be issued by the Lessor under the Indenture and authenticated by the Indenture Trustee.

"Other Owner Trustee" shall mean the owner trustee under Trust Agreement No. 1, dated as of July 15, 1994, between the Owner Participant and Shawmut.

"Other Participation Agreement" shall mean the Participation Agreement, dated as of July 15, 1994, among the owner participant party thereto, the Other Owner Trustee and First Chicago, as indenture trustee and pass through trustee.

"Outstanding", when used with respect to Notes, shall mean, as of the date of determination, all such Notes theretofore issued, authenticated and delivered under the Indenture, except (a) Notes theretofore cancelled by the Indenture Trustee or delivered to the Indenture Trustee for cancellation, (b) Notes or portions thereof for the payment of which the Indenture Trustee holds (and has notified the holders thereof that it holds) in trust for that purpose an amount sufficient to make full payment thereof when due, (c) Notes or portions thereof which have been pledged as collateral for any obligations of the obligor thereof to the extent that an amount sufficient to make full payment of such obligations when due has been deposited with the pledgee of such Notes for the purpose of holding such amount in trust for the payment of such obligations in accordance with the indenture or agreement under which such obligations are secured and (d) Notes in exchange for, or in lieu of, which other Notes have been issued, authenticated and delivered pursuant to such Indenture.

"Overdue Rate" shall mean the rate per annum from time to time equal to the greater of (x) two percent (2%) above the Average Applicable Rate and (y) two percent (2%) above the Prime Rate computed on the basis of a 360-day year of twelve 30-day months.

"Owner Participant" shall mean Philip Morris Capital Corporation, a Delaware corporation.

"Owner Participant's Liens" shall mean Liens on the Trust Estate arising during the Lease Term or prior to the payment in full of the Notes (other than Permitted Liens described in clauses (a) and (c) through (e) of the definition of such term) which result solely from acts of, or any failure to act by, or claims against, the Owner Participant unrelated to the transactions contemplated by the Transaction Documents and which are not being contested by the Owner Participant in good faith and by appropriate proceedings, as long as such proceedings do not involve any material danger of the sale, forfeiture or loss (or loss of use) of the Undivided Interest, the Indenture Estate, title thereto or any interest therein.

"Owner Trustee" shall mean Shawmut Bank Connecticut, National Association, a national banking association, not in its individual capacity, but solely as Owner Trustee under Trust Agreement No. 2, dated as of July 15, 1994, and each successor as Owner Trustee under such Trust Agreement.

"Participation Agreement" shall mean the Participation Agreement, dated as of July 15, 1994, among Shawmut Bank Connecticut, National Association, in its individual capacity and as Owner Trustee, the Indenture Trustee, the Owner Participant, the Pass Through Trustee and the Lessee.

"Pass Through Certificates" shall mean the pass through certificates issued pursuant to the Pass Through Trust Agreement.

"Pass Through Trust Agreement" shall mean each Pass Through Trust Agreement, dated as of July 15, 1994, between the Lessee and the Pass Through Trustee.

"Pass Through Trustee" shall mean The First National Bank of Chicago, a national banking association, not in its individual capacity, but solely as Pass Through Trustee under each Pass Through Trust Agreement, and each successor Pass Through Trustee under the related Pass Through Trust Agreement.

"Permitted Liens" shall mean (a) the respective rights and interests of the Lessee, the Owner Participant, the Lessor and the Indenture Trustee, as provided in the Transaction Documents and the respective rights and interests of the parties to the Other Participation Agreement under the Transaction Documents (as defined in such Other Participation Agreement), (b) Lessor's Liens and Owner Participant's Liens, (c) Liens for Taxes either not yet due or being contested in good faith and by appropriate proceedings, so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of any part of the Facility or the Facility Site, the Trust Estate, the Indenture Estate, title thereto or any interest therein and shall not interfere with the use or disposition of any part of the Facility or the Facility Site, the Trust Estate, the Indenture Estate, title thereto or any interest therein, or the payment of Rent, and the Lessee shall have provided adequate reserves for the payment of such Taxes, (d) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee for amounts either not yet due or being contested in good faith and by appropriate proceedings so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of any part of the Facility or the Facility Site, the Trust Estate, the Indenture Estate, title thereto or any interest therein and shall not interfere with the use or disposition of any part of the Facility or the Facility Site, the Trust Estate, the Indenture Estate, title thereto or interest therein, or the payment of Rent, and the Lessee shall have provided adequate reserves for the payment of such amounts, (e) Liens arising out of judgments or awards against the Lessee with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and either which have been bonded or for the payment of which adequate reserves shall have been provided so long as such judgment, award or appeal shall not involve any danger of the sale, forfeiture or loss of any part of the Facility or the Facility Site, the Trust Estate, the Indenture Estate, title thereto or any interest therein and shall not interfere with the use or disposition of any part of the Facility or the Facility Site, the Indenture Estate, title thereto or any interest therein, or the payment of Rent, (f) certain other specifically identified Liens, and (g) Liens consented to by the Lessor in accordance with the Lease.

"Person" shall mean any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

"Philip Morris Capital Corporation" or "PMCC" shall mean Philip Morris Capital Corporation, a Delaware corporation.

"Pricing Assumptions" shall mean the pricing assumptions set forth in a schedule to the Lease; provided, however, that from and after any adjustment pursuant to the Lease such term shall mean the pricing assumptions set forth in the same schedule to the Lease, as modified in connection with any such adjustment.

"Prime Rate" shall mean the "prime rate" or "base rate" of Citibank, N.A. as announced from time to time.

"Prudent Mining Industry Practice" shall mean, at a particular time, those practices, methods and acts as are in accordance with standards of prudence applicable to the gold mining industry in the western region of the United States of America which would have been expected to accomplish the desired result at the reasonable cost consistent with reliability and safety. "Prudent Mining Industry Practice" shall not include any practice, method or act that discriminates against the Facility or the Undivided Interest in relation to those practices, methods or acts employed by the Lessee with respect to mining facilities other than the Facility.

"Purchase Documents" shall mean the Bill of Sale, and any other documents deemed desirable to convey good and marketable title to the Undivided Interest to the Lessor.

"Refunding" or "Refunding of the Notes" shall mean the refunding or reissuing of Notes pursuant to the Indenture.

"Renewal Term" shall mean each period during which the Undivided Interest may be leased as permitted by the Lease, or such shorter period as may result from earlier termination as provided in the Lease.

"Rent Payment Dates" shall mean and include each January 5 and July 5 of each year, commencing July 5, 1995, throughout the Basic Term and September 30, 2015, and each March 28 and September 30 of each year throughout each elected Renewal Term.

"Shawmut" shall mean Shawmut Bank Connecticut, National Association, a national banking association, in its individual capacity.

"Site Interest" shall mean the land on which the Facility is located, leased by the Lessee to the Lessor pursuant to the Ground Lease and Easement, and as such land is more particularly described in Annex 2 attached hereto.

"Stipulated Loss Value", as of any Rent Payment Date, shall mean (i) during the Interim Term and the Basic Term, an amount equal to the product obtained by multiplying Facility Cost by the percentage set forth in a schedule attached to the Lease (which Stipulated Loss Values as originally attached to the Lease are based upon the Pricing Assumptions and are subject to adjustment pursuant to the Lease) and set forth opposite such Rent Payment Date and (ii) during any Renewal Term, the amount determined by amortizing ratably the Fair Market Value of the Undivided Interest as of the day following the last day of the Basic Term or the last preceding Renewal Term, as the case may be, in semi-annual steps over the remaining term of the Ground Lease and Easement, which amortized amounts shall be set forth in a revised Schedule of Stipulated Loss Values and attached to the Lease pursuant to a Lease Supplement prior to the last day of the Basic Term or the last preceding Renewal Term, as the case may be; provided, however, that, after giving effect to the payment of rent on such Rent Payment Date and the application thereof to the payment of the regular installment of principal of, and all accrued and unpaid interest on, the Notes then due, Stipulated Loss Value as of any date shall be, under any circumstances and in any event, an amount at least sufficient to pay in full the aggregate unpaid principal amount of all Notes then Outstanding under the Indenture.

"Supplemental Financing" shall mean Supplemental Financing Notes issued to finance (x) the excess, if any, of (A) an amount equal to the product obtained by multiplying the actual cost of any Modification incorporated in the Facility by the Lessor's Share over (B) any Additional Equity Investment, or (y) if the Owner Participant shall elect not to make any Additional Equity Investment, an amount equal to the product obtained under sub-clause (A) of (x) above.

"Supplemental Financing Notes" shall mean those Notes issued in conjunction with a Supplemental Financing.

"Support Agreement" shall mean the Support Agreement, dated September 30, 1994, between Lessor and Lessee.

"Tax" or "Taxes" shall mean any and all present or future fees (including, without limitation, documentation, recording, license and registration fees), taxes (including, without limitation, income, gross or net income, gross receipts, sales, use, rental, occupancy, ad valorem, value added, franchise, business, transfer, capital, property (personal and real, tangible and intangible), intangibles, excise and stamp taxes), levies, imposts, duties, charges, assessments or withholdings of any nature whatsoever, general or special, ordinary or extraordinary, together with any and all penalties, fines, additions to tax and interest thereon.

"Tax Indemnity Agreement" shall mean the Tax Indemnity Agreement, dated September 30, 1994, between the Lessee and PMCC.

"Termination Value" shall mean the values set forth in a schedule to the Lease.

"Transaction Documents" shall mean the Participation Agreement, the Lease, the Tax Indemnity Agreement, the Trust Agreement, the Indenture, the Deed of Trust, the Notes, the Pass Through Trust Agreement, the Pass Through Certificates, the Underwriting Agreement, the Ground Lease and Easement, the Support Agreement, the Assignment of Contracts, and the Purchase Documents.

"Trust Agreement" shall mean the Trust Agreement No. 2, dated as of July 15, 1994, in the form of Exhibit A to the Participation Agreement, as such Agreement shall be amended from time to time in accordance with the terms thereof and of the Transaction Documents.

"Trust Estate" shall mean the trust estate created by the Trust Agreement and shall include all estate, right, title and interest of the Lessor in and to its Investment, its Undivided Interest, the Facility Site, the Transaction Documents and any other property contributed by the Owner Participant to the Owner Trustee.

"Underwriters" shall mean Salomon Brothers Inc, Chemical Securities Inc., CS First Boston Corporation and Lazard Freres & Co.

"Underwriting Agreement" shall mean the agreement between Lessee and the Underwriters relating to the offering and sale of the Pass Through Certificates.

"Undivided Interest" shall mean a 25% undivided interest in the Facility.

"User" shall mean the Lessor or any successor, assign or lessee of the Lessor.

ANNEX 1

LIST OF ASSETS

The Facility consists of the structures, machinery and equipment which together make up an integrated refractory gold ore treatment process facility. The principal components of the Facility are (1) a primary and secondary crushing circuit composed of, among other things, a jaw crusher, a high-angle conveyor, a screen and standard cone crusher, a radial stacker, reclaim feeders and a lime bin, (2) a dry grinding circuit composed of, among other things, a natural gas-fired burner, a double rotator grinding unit with an integral drying chamber, primary and secondary air classifiers, a fine ore bin, a bucket elevator and two baghouse clusters, (3) a roasting circuit consisting of two parallel trains each with a day feed bin, a circulating fluid bed preheater circuit and baghouse, an SO^2 scrubber, a circulating fluid bed roaster, two four-stage calcine coolers and two calcine quench tanks, (4) a thickening, cooling and CIL/CIP circuit, consisting of, among other things, six CIL tanks, 5 CIP tanks, a neutralization tank and related pumps, piping and compressors, (5) a gas cooling and cleaning circuit consisting of, among other things, a washing tower, two gas coolers, a fluorine removal tower and electrostatic precipitators, (6) a sulfuric acid plant consisting of, among other things, a drying tower, heat exchangers, a multiple bed converter vessel, intermediate and final absorption towers, a scrubber, a filter and sulfuric acid tanks and (7) related conveyor systems, pollution control equipment, emission stacks, cooling tower, a propane back-up system, water and acid pipelines and storage tanks.

Set forth below is a more detailed list of the assets comprising the Facility each of which is located on the process plot plan of the site on which the Facility is located near Carlin, Nevada, a reduced copy of which is attached hereto as Annex 1. Each number on the attached plot corresponds to the number next to the asset set forth below.

1. Secondary Crushing Facility G.A.

2. Secondary Crushing Electrical Equipment Room

3. High Angle Conveyor

4. Primary Jaw Crusher

5. [Intentionally left blank]

6. 300-TK-02 Lime storage Tank

7. Lime Slaking

8. [Intentionally left blank]

9. [Intentionally left blank]

10. 300-TK-03 Quench Thickener

11. [Intentionally left blank]

12. Equipment and improvements relating to Quench Water Cooling Pond

13. [Intentionally left blank]

14. Sludge Tank

15. Quench Water Pumps

16. Cooling Pond Transformer and MCC

17. Neutralization Feed Tank

18. Thickener Feed Tank Electrical Room

19. Equipment and improvements relating to Spill Pond

20. Equipment and improvements relating to Storm Pond

21. Double Rotator Mill Feed Conveyor

22. Five CIL TANKS

23. Six Propane Tanks

24. [Intentionally left blank]

25. Grinding Electrical Equipment Room

26. Equipment and improvements relating to Grinding Transformer Yard

27. Methanol Tank

28. Grinding Building G.A.

29. [Intentionally left blank]

30. Grinding/Roasting Facility Control Room

31. Motor Control Room

32. Water Treatment

33. Acid Storage Tank H_2 So_4

34. Liquid Sulfur Storage Tank

35. [Intentionally left blank]

36. Sulfuric Acid Plant (By Lurgi)

37. Roasting Facility (By Lurgi)

38. Gas Cooling and Cleaning

39. [Intentionally left blank]

40. Neutralization Tank

41. Plant Acid Storage Tank

42. [Intentionally left blank]

43. ROTP Cooling Tower

44. Equipment and improvements relating to Storm Water Retention Pond

45. Cooling Tower Standpipe

46. 200 BM 001 Radial Stacker

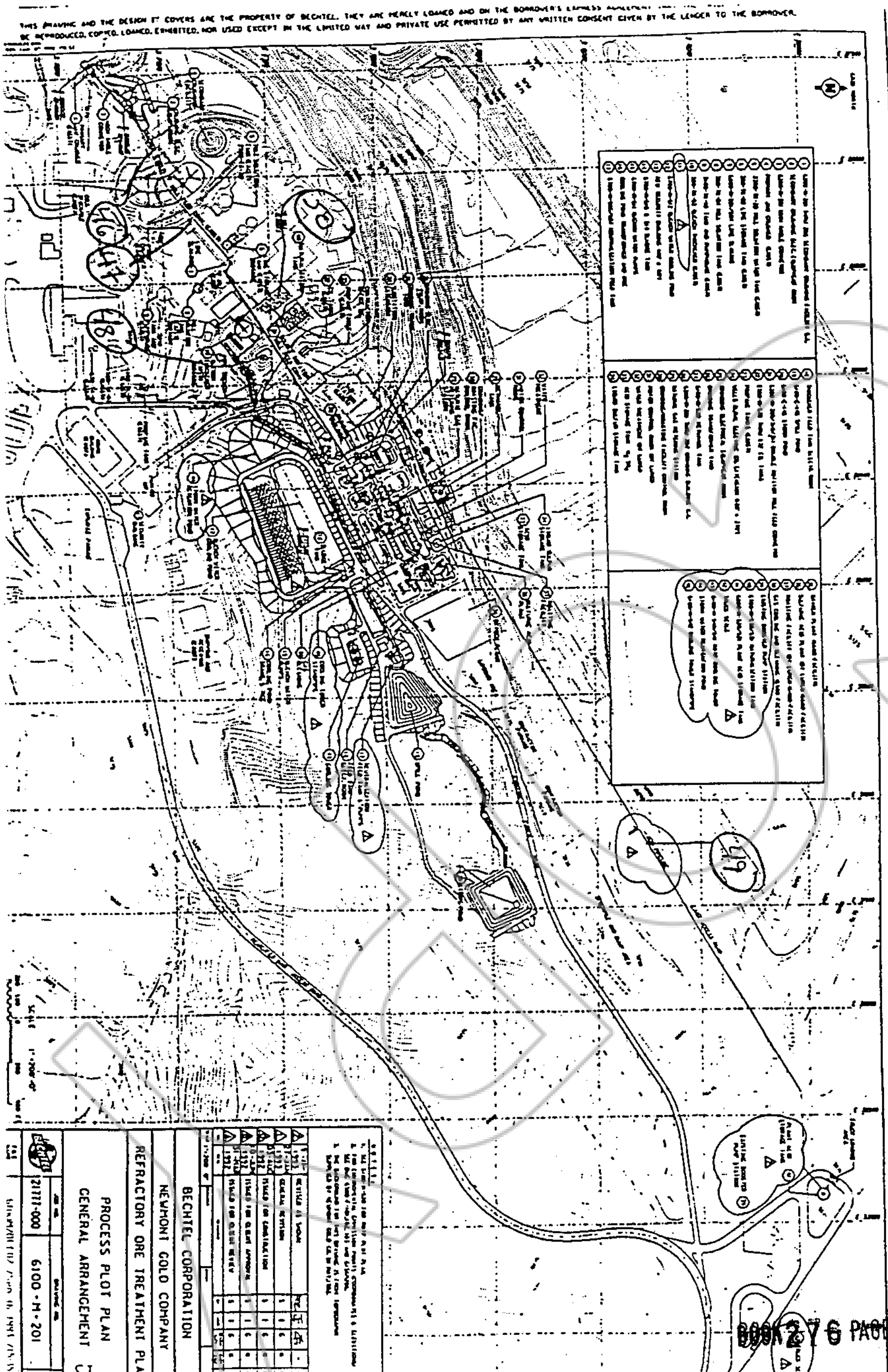
47. 300 CV 001 Mill Feed Conveyor System

48. Equipment and improvements relating to 2375 Spill Catchment Pond

49. Sulfuric Acid Pipeline

50. 400 TK O10-15 Six CIP Tanks

ANNEX 1
TO
LIST OF ASSETS



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ANNEX 2

All that certain lot, piece or parcel of land situate in the County of Eureka, State of Nevada, described as follows:

PORTIONS OF THE NORTH HALF OF SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST; THE SOUTH HALF OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST; AND THE WEST HALF OF SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, MOUNT DIABLO MERIDIAN; SAID PORTIONS TO DEFINE THE LIMITS OF AN EASEMENT KNOWN AS THE CONVEYOR PLOT AREA AND EACH OF FOUR SITE INTEREST PARCELS KNOWN AS FOLLOWS: SITE INTEREST PARCEL 1, AN APPROXIMATE 47.69 ACRE LEASE PARCEL; SITE INTEREST PARCEL 2, AN APPROXIMATE 6.28 ACRE LEASE PARCEL; SITE INTEREST PARCEL 3, AN APPROXIMATE 2203.84 SQUARE FOOT LEASE PARCEL; SITE INTEREST PARCEL 4, AN APPROXIMATE 456.75 SQUARE FOOT LEASE PARCEL, EACH MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR EACH OF THE FOLLOWING DESCRIPTIONS IS THE EAST SECTION LINE OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, DEPICTED AS NORTH 00°05′ 41" WEST ON EXHIBIT "A" ATTACHED TO THAT CERTAIN SHORT FORM LEASE BETWEEN NEWMONT GOLD COMPANY, AS LESSOR, AND PRAXAIR, INC., AS LESSEE, DATED THE 23RD DAY OF NOVEMBER, 1992, RECORDED IN BOOK 244 AT PAGE 072 IN THE OFFICE OF THE RECORDER OF EUREKA COUNTY, NEVADA.

SITE INTEREST PARCEL 1

COMMENCING AT THE SOUTHEAST SECTION CORNER OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, MOUNT DIABLO MERIDIAN, A FOUND GENERAL LAND OFFICE MONUMENT, ALSO COMMON TO SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, AND SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST, AND SECTION 6, TOWNSHIP 33 NORTH, RANGE 52 EAST;

THENCE NORTH 00°05′ 41" WEST, COINCIDENT WITH THE EAST LINE OF THE AFOREMENTIONED SECTION 36, 731.30 FEET, TO THE **POINT OF BEGINNING;**

THENCE DEPARTING SAID SECTION LINE, SOUTH 62°51′ 52" WEST, 74.18 FEET;

THENCE SOUTH 06°43′ 15" EAST, 172.08 FEET;

THENCE SOUTH 44°36′ 42" WEST, 294.74 FEET;

THENCE SOUTH 69°37′ 35" WEST, 1000.00 FEET;

THENCE NORTH 87°26′ 12" WEST, 192.16 FEET;

THENCE NORTH 33°52′ 32" WEST, 203.42 FEET;

THENCE SOUTH 81°41′ 37" WEST, 171.61 FEET;

THENCE SOUTH 57°11′ 05" WEST, 103.37 FEET;

THENCE NORTH 39°50′ 14" WEST, 74.74 FEET;

THENCE SOUTH 50°41′ 48" WEST, 95.22 FEET;

THENCE SOUTH 41°31′ 00" EAST, 38.92 FEET;

THENCE SOUTH 51°49′ 09" WEST, 55.80 FEET;

THENCE NORTH 40°35′ 04" WEST, 169.95 FEET, TO A POINT COINCIDENT WITH THE "CONVEYOR PLOT AREA EASEMENT" PERIMETER LINE, AS DESCRIBED WITHIN THIS LEGAL DESCRIPTION FOR DEFINITION OF A LEASE UNDER THE HEADING OF "CONVEYOR PLOT AREA EASEMENT";

THENCE COINCIDENT WITH SAID "CONVEYOR PLOT AREA EASEMENT" PERIMETER LINE THROUGH THE FOLLOWING THREE COURSES, CONTINUING NORTH 40°35′ 04" WEST, 8.50 FEET, TO A POINT KNOWN AS POINT 'A';

THENCE DEPARTING POINT 'A', NORTH 48°03′ 57" EAST, 20.00 FEET;

THENCE NORTH 39°24′ 28" WEST, 7.88 FEET;

THENCE DEPARTING SAID COINCIDENT "CONVEYOR PLOT AREA EASEMENT" PERIMETER LINE, CONTINUING NORTH 39°24′ 28" WEST, 198.71 FEET;

THENCE NORTH 49°55′ 58" EAST, 219.88 FEET;

THENCE SOUTH 40°03′ 39" EAST, 224.41 FEET;

THENCE NORTH 58°55′ 30" EAST, 547.94 FEET;

THENCE NORTH 34°22′ 52" WEST, 363.22 FEET;

THENCE NORTH 64°34′ 35" EAST, 506.09 FEET;

THENCE NORTH 69°41′ 40" EAST, 225.46 FEET;

THENCE NORTH 63°24′ 23" EAST, 285.70 FEET;

THENCE NORTH 57°06′ 34" EAST, 195.70 FEET;

THENCE NORTH 72°24′ 44" EAST, 237.36 FEET;

THENCE NORTH 67°59′ 38" EAST, 188.43 FEET;

THENCE NORTH 78°31′ 52" EAST, 257.54 FEET;

THENCE NORTH 62°17′ 00" EAST, 282.30 FEET;

THENCE NORTH 65°30′ 30" EAST, 239.04 FEET;

THENCE NORTH 56°22′ 52" EAST, 938.04 FEET;

THENCE NORTH 67°58′ 58" EAST, 372.63 FEET;

THENCE NORTH 66°46′ 21" EAST, 290.51 FEET;

THENCE NORTH 12°07′ 24" WEST, 153.64 FEET;

THENCE NORTH 34°30′ 49" EAST, 301.06 FEET, TO A POINT ON A CURVE ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROUTE 766, AS RECORDED IN BOOK 76, PAGES 144-148 OF DEEDS, IN THE OFFICE OF THE RECORDER OF EUREKA COUNTY, NEVADA;

THENCE ALONG SAID CURVE, WHICH IS NON-TANGENT AND CONCAVE TO THE SOUTHWEST, DEPARTING A TANGENT WHICH BEARS SOUTH 59°18′ 00" EAST, COINCIDENT WITH THE AFOREMENTIONED SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROUTE 766, SAID CURVE HAVING A RADIUS OF 9900.00 FEET, PASSING THROUGH A CENTRAL ANGLE OF 2°09′ 27", AN ARC DISTANCE OF 372.79 FEET;

THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, SOUTH 40°20′ 12" WEST, 98.74 FEET;

THENCE NORTH 89°32′ 34" WEST, 383.38 FEET;

THENCE SOUTH 12°07′ 24" EAST, 154.01 FEET;

THENCE SOUTH 66°46′ 21" WEST, 319.68 FEET;

THENCE SOUTH 67°58′ 58" WEST, 369.44 FEET;

THENCE SOUTH 56°22′ 52" WEST, 937.28 FEET;

THENCE SOUTH 65°30′ 30" WEST, 240.85 FEET;

THENCE SOUTH 62°17′ 00" WEST, 286.32 FEET;

THENCE SOUTH 78°31′ 52" WEST, 259.31 FEET;

THENCE SOUTH 67°59′ 38" WEST, 186.55 FEET;

THENCE SOUTH 72°24′ 44" WEST, 234.01 FEET;

THENCE SOUTH 57°06′ 34" WEST, 192.93 FEET;

THENCE SOUTH 63°24′ 23" WEST, 145.17 FEET;

THENCE SOUTH 34°22′ 52" EAST, 3.18 FEET;

THENCE NORTH 73°03′ 21" EAST, 638.50 FEET;

THENCE SOUTH 23°58′ 36" EAST, 333.36 FEET;

THENCE NORTH 62°51′ 52" EAST, 1053.72 FEET;

THENCE SOUTH 27°08′ 08" EAST, 292.71 FEET;

THENCE SOUTH 62°51′ 52" WEST, 1217.41 FEET, TO **THE POINT OF BEGINNING.**

LESS AND EXCEPTING THOSE LANDS SUBJECT TO THAT CERTAIN LEASE AGREEMENT DESCRIBED WITHIN THAT CERTAIN SHORT FORM LEASE BETWEEN NEWMONT GOLD COMPANY, AS LESSOR, AND PRAXAIR, INC., AS LESSEE, DATED THE 23RD DAY OF NOVEMBER, 1992 ENCOMPASSING THAT STRUCTURE KNOWN AS THE OXYGEN PLANT, RECORDED IN BOOK 244, AT PAGE 072, IN THE OFFICE OF THE RECORDER OF EUREKA COUNTY, NEVADA, TOGETHER WITH A 10 FOOT WIDE STRIP COINCIDENT WITH THE NORTHEASTERLY PERIMETER OF THE SAID OXYGEN PLANT, BOTH MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE AFOREMENTIONED SOUTHEAST SECTION CORNER, OF SECTION 36;

THENCE NORTH 16°01′ 05" WEST, 1077.63 FEET, TO THE **POINT OF BEGINNING;**

THENCE COINCIDENT WITH THE AFOREMENTIONED OXYGEN PLANT LEASE LINE THROUGH THE FOLLOWING THREE COURSES, SOUTH 50°00′ 00" WEST 248.70 FEET;

THENCE NORTH 24°48′ 00" WEST, 296.03 FEET;

THENCE NORTH 65°12′ 00" EAST, 240.00 FEET;

THENCE DEPARTING SAID OXYGEN PLANT LEASE LINE, DEFINING THE AFOREMENTIONED 10 FOOT WIDE STRIP, CONTINUING NORTH 65°12′ 00" EAST, 10.00 FEET;

THENCE SOUTH 24°48′ 00" EAST, 228.11 FEET;

THENCE SOUTH 50°00′ 00" WEST, 10.36 FEET TO THE **POINT OF BEGINNING.**

<u>SITE INTEREST PARCEL 2</u>

COMMENCING AT THE SOUTHEAST SECTION CORNER OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, MOUNT DIABLO MERIDIAN, A FOUND GENERAL LAND OFFICE MONUMENT, ALSO COMMON TO SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, AND SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST, AND SECTION 6, TOWNSHIP 33 NORTH, RANGE 52 EAST;

THENCE SOUTH 86°39′ 35" WEST, 2469.72 FEET TO POINT ′C′ AS DESCRIBED IN THIS LEGAL DESCRIPTION FOR DEFINITION OF A LEASE UNDER THE HEADING OF "<u>CONVEYOR PLOT AREA EASEMENT</u>", SAID POINT BEING THE **POINT OF BEGINNING;**

THENCE DEPARTING SAID POINT 'C', SOUTH 17°51' 15" EAST, 163.93 FEET;

THENCE SOUTH 11°37' 36" WEST, 69.90 FEET;

THENCE SOUTH 45°15' 32" WEST, 175.84 FEET;

THENCE NORTH 88°55' 21" WEST, 81.84 FEET;

THENCE NORTH 55°20' 37" WEST, 171.49 FEET;

THENCE SOUTH 26°41' 22" WEST, 248.89 FEET;

THENCE SOUTH 41°41' 56" WEST, 244.91 FEET;

THENCE NORTH 41°49' 28" WEST, 370.66 FEET;

THENCE NORTH 49°09' 31" EAST, 470.21 FEET;

THENCE SOUTH 51°48' 53" EAST, 139.94 FEET;

THENCE NORTH 35°02' 06" EAST, 172.49 FEET;

THENCE NORTH 63°15' 27" EAST, 225.71 FEET;

THENCE SOUTH 40°19' 00" EAST, 88.70 FEET, TO A POINT ON THE PERIMETER LINE OF THE AFOREMENTIONED "CONVEYOR PLOT AREA EASEMENT";

THENCE SOUTH 28°40' 00" EAST, COINCIDENT WITH SAID PERIMETER LINE, 20.43 FEET TO **THE POINT OF BEGINNING.**

SITE INTEREST PARCEL 3

COMMENCING AT THE SOUTHEAST SECTION CORNER OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, MOUNT DIABLO MERIDIAN, A FOUND GENERAL LAND OFFICE MONUMENT, ALSO COMMON TO SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, AND SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST, AND SECTION 6, TOWNSHIP 33 NORTH, RANGE 52 EAST;

THENCE NORTH 88°47' 13" WEST, 2274.60 FEET TO POINT 'D' AS DESCRIBED IN THIS LEGAL DESCRIPTION FOR DEFINITION OF A LEASE UNDER THE HEADING OF "CONVEYOR PLOT AREA EASEMENT", SAID POINT BEING THE **POINT OF BEGINNING;**

THENCE DEPARTING SAID POINT 'D', SOUTH 50°00' 14" WEST, COINCIDENT WITH THE PERIMETER LINE OF SAID "CONVEYOR PLOT AREA EASEMENT", 49.92 FEET;

THENCE DEPARTING SAID PERIMETER LINE, NORTH 40°01' 34" WEST, 44.15 FEET;

THENCE NORTH 50°00' 14" EAST, 49.92 FEET;

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THENCE SOUTH 40°01′ 34" EAST, 44.15 FEET TO **THE POINT OF BEGINNING.**

SITE INTEREST PARCEL 4

COMMENCING AT THE SOUTHEAST SECTION CORNER OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, MOUNT DIABLO MERIDIAN, A FOUND GENERAL LAND OFFICE MONUMENT, ALSO COMMON TO SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, AND SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST, AND SECTION 6, TOWNSHIP 33 NORTH, RANGE 52 EAST;

THENCE NORTH 89°42′ 17" WEST, 2212.97 FEET TO POINT 'B' AS DESCRIBED IN THIS LEGAL DESCRIPTION FOR DEFINITION OF A LEASE UNDER THE HEADING OF "CONVEYOR PLOT AREA EASEMENT", SAID POINT BEING THE **POINT OF BEGINNING;**

THENCE DEPARTING SAID POINT 'B', SOUTH 49°54′ 21" WEST, 31.50 FEET;

THENCE NORTH 40°05′ 39" WEST, 14.50 FEET;

THENCE NORTH 49°54′ 21" EAST, 31.50 FEET, TO A POINT ON THE PERIMETER LINE OF THE AFOREMENTIONED "CONVEYOR PLOT AREA EASEMENT";

THENCE SOUTH 40°05′ 39" EAST, COINCIDENT WITH SAID PERIMETER LINE, 14.50 FEET TO **THE POINT OF BEGINNING.**

CONVEYOR PLOT AREA EASEMENT PARCEL 5 [Not Part of Site Interest]

COMMENCING AT THE SOUTHEAST SECTION CORNER OF SECTION 36, TOWNSHIP 34 NORTH, RANGE 51 EAST, MOUNT DIABLO MERIDIAN, A FOUND GENERAL LAND OFFICE MONUMENT, ALSO COMMON TO SECTION 31, TOWNSHIP 34 NORTH, RANGE 52 EAST, AND SECTION 1, TOWNSHIP 33 NORTH, RANGE 51 EAST, AND SECTION 6, TOWNSHIP 33 NORTH, RANGE 52 EAST;

THENCE NORTH 86°10′ 39" WEST, 2013.76 FEET TO POINT 'A', WHICH IS COINCIDENT WITH THE SITE INTEREST PARCEL 1 PERIMETER AS DESCRIBED IN THIS LEGAL DESCRIPTION FOR DEFINITION OF A LEASE UNDER THE HEADING OF "SITE INTEREST PARCEL 1", SAID POINT BEING THE **POINT OF BEGINNING;**

THENCE DEPARTING POINT 'A', SOUTH 40°35′ 04" EAST, COINCIDENT WITH THE AFOREMENTIONED SITE INTEREST PARCEL 1 PERIMETER LINE, 8.50 FEET;

THENCE DEPARTING SAID SITE INTEREST PARCEL 1 PERIMETER LINE, SOUTH 59°05′ 56" WEST, 147.43 FEET, TO A POINT ON THE EXTERIOR OF THE MILL 2 BUILDING LINE;

THENCE SOUTH 40°05′ 39" EAST, COINCIDENT WITH THE EXTERIOR OF SAID MILL 2 BUILDING LINE, 0.88 FEET;

THENCE DEPARTING SAID EXTERIOR OF MILL 2 BUILDING LINE, ON A COURSE WITHIN THE INTERIOR OF THE MILL 2 BUILDING, SOUTH 49°54' 21" WEST, 89.46 FEET TO A POINT ON THE EXTERIOR OF MILL 2 BUILDING LINE;

THENCE COINCIDENT WITH THE EXTERIOR OF MILL 2 BUILDING LINE THROUGH THE NEXT THREE COURSES, NORTH 40°05' 39" WEST, 23.00 FEET, TO A POINT COINCIDENT WITH LEASE PARCEL 4 PERIMETER LINE, KNOWN AS POINT 'B';

THENCE DEPARTING POINT 'B', COINCIDENT WITH SAID LEASE PARCEL 4, CONTINUING NORTH 40°05' 39" WEST, 14.50 FEET;

THENCE DEPARTING SAID LEASE PARCEL 4 PERIMETER LINE, CONTINUING NORTH 40°05' 39" WEST, 30.86 FEET;

THENCE DEPARTING THE AFOREMENTIONED EXTERIOR OF MILL 2 BUILDING LINE, SOUTH 49°36' 54" WEST, 293.26 FEET, TO A POINT COINCIDENT WITH LEASE PARCEL 2 PERIMETER LINE, KNOWN AS POINT 'C';

THENCE DEPARTING POINT 'C', NORTH 28°40' 00" WEST, COINCIDENT WITH LEASE PARCEL 2 PERIMETER LINE, 20.43 FEET;

THENCE DEPARTING SAID LEASE PARCEL 2 PERIMETER LINE, NORTH 49°36' 54" EAST, 216.17 FEET;

THENCE NORTH 40°01' 34" WEST, 2.59 FEET, TO A POINT COINCIDENT WITH LEASE PARCEL 3 PERIMETER LINE;

THENCE NORTH 50°00' 14" EAST, COINCIDENT WITH SAID LEASE PARCEL 3 PERIMETER LINE, 49.92 FEET, TO A POINT KNOWN AS POINT 'D';

THENCE DEPARTING SAID POINT 'D' AND LEASE PARCEL 3 PERIMETER LINE, SOUTH 40°01' 34" EAST, 2.21 FEET;

THENCE NORTH 49°33' 52" EAST, 23.12 FEET, TO A POINT ON THE EXTERIOR OF SAID MILL 2 BUILDING LINE;

THENCE DEPARTING SAID EXTERIOR OF MILL 2 BUILDING LINE, BEGINNING A SERIES OF SEVEN COURSES WITHIN THE INTERIOR OF THE MILL 2 BUILDING, CONTINUING NORTH 49°33' 52" EAST, 27.26 FEET;

THENCE SOUTH 38°43' 26" EAST, 22.37 FEET;

THENCE NORTH 51°16' 34" EAST, 11.80 FEET;

THENCE SOUTH 38°43' 26" EAST, 10.50 FEET;

THENCE NORTH 78°18' 36" EAST, 37.73 FEET;

THENCE NORTH 49°54' 21" EAST, 18.00 FEET;

THENCE SOUTH 40°05' 39" EAST, 13.91 FEET, TO A POINT ON THE EXTERIOR OF SAID MILL 2 BUILDING LINE;

THENCE COINCIDENT WITH THE EXTERIOR OF SAID MILL 2 BUILDING LINE, CONTINUING SOUTH 40°05' 39" EAST, 2.45 FEET;

THENCE DEPARTING SAID EXTERIOR MILL 2 BUILDING LINE, NORTH 59°05' 56" EAST, 167.69 FEET, TO A POINT ON THE AFOREMENTIONED SITE INTEREST PARCEL 1 PERIMETER LINE;

THENCE COINCIDENT WITH SITE INTEREST PARCEL 1 PERIMETER LINE, THE FOLLOWING TWO COURSES, SOUTH 39°24' 28" EAST, 7.88 FEET;

THENCE SOUTH 48°03' 57" WEST, 20.00 FEET TO **THE POINT OF BEGINNING.**

EXCEPTING FROM LOTS 3 AND 4; PARCEL "A"; W½NE¼SW¼; AND SE¼NE¼SW¼ OF SECTION 31, T. 34 N., R. 52 E., AN UNDIVIDED 14.25% INTEREST TO COAL, OIL, GAS AND OTHER MINERALS OF EVERY KIND AND NATURE AS CONVEYED TO DONALD W. UNRUH AND DARLENE I. UNRUH BY MESNE DOCUMENTS OF RECORD.

FURTHER EXCEPTING FROM LOTS 3 AND 4; PARCEL "A"; W½NE¼SW¼ AND SE¼NE¼SW¼ OF SECTION 31, T. 34 N., R. 52 E., AN UNDIVIDED 80.75% INTEREST TO OIL, GAS AND OTHER HYDROCARBONS AS RESERVED BY JOHN M. McKINLEY, ET AL IN DEED RECORDED JULY 2, 1982 IN BOOK 103, PAGE 63, OFFICIAL RECORDS, EUREKA COUNTY, NEVADA.

EXCEPTING FROM THE SE¼ OF SECTION 36, T. 34 N., R. 51 E., ALL THE OIL, GAS AND GEOTHERMAL RESOURCE MINERAL DEPOSITS LYING IN AND UNDER SAID LAND AS RESERVED BY THE UNITED STATES OF AMERICA, IN PATENT RECORDED AUGUST 1, 1984, IN BOOK 124, PAGE 356, OFFICIAL RECORDS, EUREKA COUNTY, NEVADA.

EXCEPTING FROM PORTIONS OF THE N½ OF SECTION 1, T. 33 N., R. 51 E., ALL COAL, HYDROCARBON, GEOTHERMAL RESOURCES, PRECIOUS METALS ORES, BASE METALS ORES, INDUSTRIAL-GRADE SILICATES AND CARBONATES, FISSIONABLE MINERALS AND ALL OTHER MINERALS OF EVERY KIND AND CHARACTER, METALLIC OR OTHERWISE, WHETHER OR NOT PRESENTLY KNOWN TO SCIENCE OR INDUSTRY, NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, LYING IN AND UNDER SAID LAND RESERVED BY SOUTHERN PACIFIC LAND COMPANY, A CALIFORNIA CORPORATION, BY INSTRUMENT RECORDED JULY 21, 1987, IN BOOK 160, PAGE 382, OFFICIAL RECORDS, EUREKA COUNTY, NEVADA.

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OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Newmont Gold Co.
94 SEP 30 AM 9:33

EUREKA COUNTY NEVADA
M.N. REBALEATI, RECORDER
FILE NO. FEES 40.00
155358