

STATE OF INDIANA
LAKE COUNTY
FILED

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**Document is
MODIFIED MORTGAGE**

NOT OFFICIAL!

**This Document is the property of
the Lake County Recorder!**

This Real Estate Mortgage ("Mortgage") is given by Arthur Mendoza ("Borrower"), whose address is 836 Killarney, Dyer, Indiana 46311, to American National Bank and Trust Company of Chicago ("Lender"), whose address is 120 South LaSalle St., Chicago, IL 60603, is not intended to satisfy or release any previous mortgage or indebtedness and is only intended to amend and modify the Mortgage executed by Borrower to Lender on August 11, 1998, and recorded as document number 98062941 in the Office of the Recorder of Lake County, Indiana ("Original Mortgage") on August 12, 1998, which is incorporated by reference as if the same were fully set forth herein, and pertains to the real estate situated in Lake County, Indiana described in Exhibit "A", attached hereto and made a part hereof, together with all rights, privileges, interest, mineral rights, water rights, timber rights and/or gas rights, easements, building, improvements, appurtenances, fixtures and hereditaments therein, thereon, or thereto belonging (herein collectively "Real Estate"), and the rents and profits and other income of the Real Estate whether now existing or hereafter acquired, which said rents and profits are now and hereby assigned to Lender.

I. RECITALS

- 1.01 Original Mortgage. Pursuant to that certain Original Mortgage dated August 11, 1998, said Original Mortgage secured loans to and indebtedness of Marport Smelting L.L.C., as well as any renewal, extension, modification, refinancing, or replacement of the indebtedness ("Assorted Marport Indebtedness") including loans or other advances made to or for the benefit of the Borrower pursuant to a Term Loan Note dated April 30, 1998 in the principal amount of \$880,000.00 and a Line of Credit Note dated April 30, 1998 with a maximum commitment of \$1,750,000.00, ("Marport Notes"), as well as obligations under guarantees executed by Borrower in favor of Lender. Additionally, said Original Mortgage secured any other indebtedness which Borrower might from time to time, while the Original Mortgage is in effect, owe to Lender. Borrower, Lender and Marport Smelting, LLC entered into seven Forbearance and Modification Agreements, many of which were filed with the Office of the Recorder of Lake County, Indiana, which modified, extended and refinanced the Assorted Marport Indebtedness. The Second Forbearance and Modification Agreement modified and extended the indebtedness secured by the Original Mortgage pursuant to the Assorted Alloys of Tennessee, L.L.C.

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Revolver Note dated April 30, 1998, in the principal amount of \$2,250,000.00 and a Term Loan Note with Assorted Alloys of Tennessee, L.L.C. dated April 30, 1998, in the principal amount of \$450,000.00 (collectively, "Assorted Notes"). Both Borrower and Marport Smelting, L.L.C. have guaranteed the indebtedness evidenced by the Assorted Notes pursuant to two Continuing Unconditional Guaranties dated November 24, 1997.

1.02 **Assignment.** Lender assigned all of its right, title and interest, without recourse, in and to the Marport Notes and the related portion of the Assorted Marport Indebtedness to Indiana Aluminum Inc. on January 25, 2000, ("Assignment Agreement"). Said Assignment Agreement provides that Indiana Aluminum has no security interest in the Borrower's Real Estate by the Original Mortgage, and the obligation assigned is deemed to be unsecured as to the Real Estate.

1.03 **This Mortgage.** This Mortgage is provided by Borrower to Lender pursuant to the Settlement and Modification Agreement ("Settlement Agreement") entered into between Lender and Borrower, dated FEBRUARY 25, 2000 and is a continuation of the lien and security interest granted to Lender by Borrower by the Original Mortgage. This Mortgage is intended to modify and amend the Original Mortgage and is not intended to be a waiver of any of the rights and remedies the Lender was granted under the Original Mortgage nor is it intended to be a satisfaction or release of the Original Mortgage.

II. INDEBTEDNESS

2.01 **The Debt.** This Mortgage secures to Lender that portion of the Assorted Marport Indebtedness consisting of all obligations arising out of the Assorted Notes, Marport Smelting, L.L.C.'s guarantee thereof and Borrower's guarantees thereof, in an amount not to exceed \$500,000.00, along with any interest, costs, and fees, pursuant to the terms of the Settlement Agreement. In accordance with the Settlement Agreement, this Modified Mortgage does not secure the repayment of the Marport Notes, which have been previously assigned to Indiana Aluminum Inc. pursuant to the Assignment Agreement.

III. PAYMENT OF INDEBTEDNESS

3.01 **Terms.** Borrower shall pay when due all payments pursuant to the Settlement Agreement.

IV. COVENANTS

4.01. Borrower represents and agrees that all of the Covenants set forth in Original Mortgage shall remain in full force and effect and shall not be altered or amended by this Modified Mortgage except as specifically set forth herein.

V. DEFAULT AND BREACH

5.01 **Events of Default.** Borrower's breach of any covenant or agreement of Lender contained in this Mortgage or any event defined as a default in the Settlement Agreement secured hereby, or any other instrument or document executed by Borrower in favor of Lender, including, but not limited to any failure by Borrower to make any payment of principal and/or interest when due under the Settlement Agreement secured hereby shall constitute a default under this Mortgage.

5.03 Borrower and Lender represent and agree that all of the remaining terms set forth in the Original Mortgage pertaining to Default and Breach shall remain in full force and effect and shall not be altered or amended by this Modified Mortgage except as specifically set forth herein.

VI. SATISFACTION AND RELEASE

6.01 Borrower and Lender represent and agree that all of the terms set forth in the Original Mortgage pertaining to Satisfaction and Release shall remain in full force and effect and shall not be altered or amended by this Modified Mortgage except as specifically set forth herein.

VII. MISCELLANEOUS

7.01 Borrower and Lender represent and agree that all of the terms set forth in the Original Mortgage under the heading "Miscellaneous" shall remain in full force and effect and shall not be altered or amended by this Modified Mortgage except as specifically set forth herein.

VIII. CONFLICTS

8.01 In the event of any conflict with the terms of this Modified Mortgage and the Original Mortgage, the terms of the Modified Mortgage shall prevail.

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Mortgage and in any rider(s) executed by Borrower and recorded with it, and Borrower acknowledges receipt of a conformed copy of this Mortgage.

(Signature)

(Printed/Typed Name)

Arthur Mendoza
(Signature)
Arthur Mendoza
(Printed/Typed Name)

(NAME OF CORPORATION)

By: _____
(Signature)

(Printed/Typed Name and Office)

By: _____
(Signature)

(Printed/Typed Name and Office)

STATE OF ~~INDIANA~~ ILLINOIS
COUNTY OF COOK SS:

On this 28th day of March, 2000, before me, the undersigned, a Notary Public in said County and State, personally appeared Arthur Mendoza and acknowledged the execution of the foregoing Mortgage.

Witness my hand and official seal.

My Commission Expires: _____



Georgian Spata
(Signature of Notary Public)

GEORGIAN SPATA
(Printed/Typed Name of Notary Public)

Resident of COOK County, ~~Indiana~~
ILLINOIS

EXHIBIT A

Lot 28 in Briar Ridge Country Club Addition, Unit 14, a Planned United Development to Dyer, as per plat thereof, recorded in Plat Book 66 page 33, in the Office of the Recorder of Lake County, Indiana.

Commonly known as: 836 Killarney, Dyer, Indiana

