

STATE OF ALABAMA)

SHELBY COUNTY)

MORTGAGE AND SECURITY AGREEMENT

This MORTGAGE AND SECURITY AGREEMENT (herein called "this Mortgage") made and entered into on this the 31st day of May, 1983, by and between LUDLUM CORPORATION, a corporation (herein called "Mortgagor"), whose address is 12 Bay 6th C. Monticello, Alabama, and NATIONAL BANK OF GEORGIA, a national banking association (herein called "Mortgagee"), whose address is 34 Peachtree Street, Atlanta, Georgia 30303, Attention: Becky C. Porter;

WITNESSETH:

WHEREAS, Mortgagor is justly indebted to Mortgagee in the principal sum of THREE HUNDRED TWENTY THOUSAND and No/100 DOLLARS (\$320,000.00) as evidenced by a real estate promissory note of even date herewith in the principal amount of \$320,000.00 from Mortgagor to Mortgagee;

WHEREAS, Mortgagor desires to secure the prompt payment of said note, and the several installments of principal and interest therein provided for, and any additional indebtedness accruing to Mortgagee on account of any future payments, advances or expenditures made by Mortgagee hereunder;

NOW, THEREFORE, in consideration of the premises and in order to secure the prompt payment of the aforesaid indebtedness with the interest thereon, and any further sum or sums for which Mortgagor may hereafter become indebted to Mortgagee hereunder, and further to secure the performance of the covenants, conditions and agreements hereinafter and in said note set forth, Mortgagor has granted, bargained, sold and does hereby grant, bargain, sell, alien and convey to Mortgagee, its successors and assigns, the following described property (herein called "the Mortgaged Property"), and a security interest therein:

Part of the Southwest Quarter of the Northwest Quarter of Section 25, Township 20 South, Range 3 West, situated in Shelby County, Alabama, being more particularly described as follows: Commence at the point of intersection of the south line of said Quarter-Quarter Section and the westerly right-of-way of U.S. Highway 31, thence run Northeasterly 299.13 feet along said right-of-way to the point of beginning; thence continue along last described course 125.00 feet; thence an angle left of 103°00'35" and run Westerly 200.00 feet; thence an angle left of 90°00' and run Southerly 121.79 feet; thence an angle left of 90°00' and run Easterly 171.86 feet to the point of beginning. Mineral and mining rights excepted.

together with (a) all and singular the rights, members, privileges and appurtenances thereunto belonging or in anywise appertaining, and all rights, title and interests, if any, of Mortgagor in and to any streets, alleys, roads or highways abutting the described premises; (b) all awards hereafter made for any taking of or injury to the Mortgaged Property through eminent

 **TICOR TITLE INSURANCE**

Phillip W. Hayley
Account Manager

domain or otherwise, including awards or damages for change of grade, and also any return premiums or other payments upon any insurance at any time provided for the benefit of Mortgagee, all of which awards, damages, premiums and payments are hereby assigned to Mortgagee and may be at any time collected by it; (c) all structures, now or hereafter constructed thereon, and all building materials, equipment, and fittings of every kind or character now owned or hereafter acquired by Mortgagor for the purpose of constructing bulidings and structures thereon, and improvements, fixtures and articles of personal property now or hereafter attached to or used or adapted for use in the operation of the mortgaged premises, all of which shall be deemed part of the realty, including, but without being limited to furniture, all carpeting, drapes, elevators, heating and incinerating apparatus and equipment whatsoever, all boilers, engines, motors, dynamos, generating equipment, piping and plumbing fixtures, cooling, air conditioning, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures; and (d) all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or from any letting of, or agreement for the use and occupancy of, any part of the Mortgaged Property described above.

BOOK 431 PAGE 778
TO HAVE AND TO HOLD, the Mortgaged Property and every part thereof, unto Mortgagee, its successors and assigns, forever, subject and subordinate, however, to (i) title to all minerals within and underlying the premises, together with all mining rights, privileges and immunities relating thereto as recorded in Deed Book 36, Page 426, in the Probate Office of Shelby County, Alabama; (ii) release of damages in favor of Postal Telegraph Cable Co., recorded in Deed Book 80, Page 41 in said Probate Office; (iii) Restrictions covenant appearing of record in Deed Book 345, Page 578, in said Probate Office; (iv) rights of way granted Alabama Power Company recorded in Deed Book 102, Page 198, Deed Book 113, Page 95 and Deed Book 170, Page 262, in said Probate Office; and (v) ad valorem taxes for the year 1983, which said taxes are not due and payable until October 1, 1983; provided always that if Mortgagor pays the indebtedness secured by this Mortgage, and reimburses Mortgagee for any amounts it may have expended pursuant to the authorization of this Mortgage, including without limitation, sums spent in payment of taxes, assessments, insurance, lease payments or other liens and interests thereon, and shall do and perform all other acts and things herein agreed to be done, this conveyance shall be null and void; otherwise, it shall remain in full force and effect.

AND, Mortgagor covenants with Mortgagee that it is lawfully seized of the Mortgaged Property subject to the aforesaid encumbrances and has a good right to sell and convey the same as aforesaid, that the Mortgaged Property is free from all encumbrances except as herein set out, that Mortgagor will warrant and forever defend the title to the Mortgaged Property unto Mortgagee, its successors and assigns, against the lawful claims of all persons whomsoever, except those claiming under those encumbrances set out above.

This Mortgage is made and accepted on the understanding that the following covenants, conditions and agreements shall continue in effect so long as any portion of the indebtedness hereby secured remains unpaid, to-wit:

(1) The Mortgagor shall pay all indebtedness secured hereby, whether presently existing or hereafter incurred, and shall comply with and perform their obligations under the promissory note, this Mortgage, and that certain Construction Loan Agreement of even date herewith between Mortgagor and Mortgagee (herein called the "Loan Agreement").

(2) That concurrently with payments of principal and interest, Mortgagor will pay to the Mortgagee monthly on the first day of each month after the date hereof, and until the principal sum secured hereby is fully paid, a sum equal to taxes, casualty insurance premiums and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such taxes, casualty insurance premiums and assessments will become delinquent, such sums to be held by Mortgagee in trust, without interest to pay said taxes, casualty insurance premiums and special assessments.

All payments mentioned in the preceding subsection of this paragraph and the payments to be made on the note secured hereby shall be added together and the aggregate amount thereof shall be paid by the Mortgagor each month in single payment to be applied by the Mortgagee to the following items in the order set forth:

- (i) taxes and special assessments;
- (ii) casualty insurance premiums;
- (iii) interest on the balance of the principal due and owing hereunder; and
- (iv) amortization of principal hereunder.

Any excess funds accumulated under the provisions hereof remaining after payment of the items herein mentioned shall be credited to subsequent monthly payments of the same nature required hereunder; but if any such item shall exceed the estimate therefor the Mortgagor shall without demand forthwith make good the deficiency. Failure to do so before the due date of such item shall be a default hereunder. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under this provision (2) shall be credited to the principal of the mortgage as of the date of commencement of foreclosure proceedings or as of the date the property is otherwise acquired.

(3) The Mortgagor shall for the benefit of Mortgagee constantly keep in force fire and extended coverage insurance policies and, when available and required by Mortgagee, war damage and other hazard insurance with respect to the Mortgaged Property, such insurance to be provided in such manner and in such companies as may be required by Mortgagee for not less than the full insurable value of the Mortgaged Property, with loss, if any, payable to Mortgagee as its interest may appear, and Mortgagor hereby transfer, assign, set over and deliver to Mortgagee the fire and other insurance policies covering said property and any and all renewals thereof, the premiums on which have been or shall be paid by Mortgagor, and it is further agreed that all such insurance and insurance policies or certificates thereof shall be held by Mortgagee as a part of the security for said indebtedness, and shall pass to, and become the property of, the purchaser at any foreclosure sale hereunder, without the necessity of specifically describing said insurance or insurance policies in the foreclosure notice, sale, deed or other proceedings in consummation of such foreclosure. It is understood and agreed between the parties hereto that any sum, or sums, of money received for any damage by fire or other casualty to any property herein conveyed may be retained by the then-holder of the indebtedness secured by this Mortgage and applied toward payment of such indebtedness, either in whole or in part, or, at the option of the holder of said indebtedness, the same may be applied in payment for any repair or replacement of such property without affecting the lien of this Mortgage for the full amount hereby secured. Mortgagor agrees to give Mortgagee notice

in writing of any damage to the Mortgaged Property caused by fire or other casualty within ten (10) days after the occurrence of any such damage.

(4) The Mortgaged Property shall be kept in good repair, working order and condition by Mortgagor, and no waste committed or permitted thereon, natural wear and tear excepted, and all taxes and assessments or other charges which may be levied upon or accrue against said property as well as other sums which may be or become liens or charges against the same, shall be paid and discharged by Mortgagor promptly as and when so levied or assessed, and shall not be permitted to become delinquent or take priority over the lien of this Mortgage, and Mortgagor shall comply fully with all legal requirements relating to the Mortgaged Property and the use and occupancy thereof.

(5) No building or other improvement constituting a part of the Mortgaged Property shall be structurally altered, removed or demolished, without the Mortgagee's prior written consent, nor shall any personal property or interest therein conveyed by this Mortgage be removed from its present location (except to another location on said land) at any time without like consent.

(6) Mortgagor shall give Mortgagee access to and permit it to inspect and examine the Mortgaged Property and any records relating thereto.

BOOK 431 PAGE 780

(7) Any lien which may be filed under the provisions of the statutes of Alabama, relating to liens of mechanics and materialmen, shall be promptly paid and discharged by Mortgagor and shall not be permitted to take priority over the lien of this Mortgage, provided that Mortgagor, upon first furnishing to Mortgagee reasonable security for the payment of all liability, costs and expenses of the litigation, may in good faith contest, at Mortgagor's expense, the validity of any such lien or liens.

(8) If Mortgagor fails to insure the Mortgaged Property as hereinabove provided, or to pay all or any part of the taxes or assessments levied, accrued or assessed upon or against said property or the indebtedness secured hereby, or any interest of the Mortgagee in either, or fail to pay immediately and discharge any and all liens, debts and/or charges which might become liens superior to the lien of this Mortgage, Mortgagee may, at its option, insure said property and/or pay said taxes, assessments, debts, liens and/or charges, and any money which Mortgagee shall have so paid or become obligated to pay shall constitute a debt to Mortgagee additional to the debt hereby specially secured, and shall be secured by this Mortgage, shall bear interest from the date paid or incurred and shall be immediately due and payable.

(9) If Mortgagee shall be made a party to any suit involving the title to the Mortgaged Property resulting from matters of title occurring subsequent to this Mortgage, and employs an attorney to represent it therein, or if Mortgagee employs an attorney to assist in settling, adjusting, defending against or removing any cloud or encumbrance on the title to said property created subsequent to this Mortgage that purports to be superior to the lien of this Mortgage in any respect, whether valid or not, or if Mortgagee employs an attorney to collect any indebtedness secured hereby and enforce the terms hereof, Mortgagor will pay to Mortgagee, when the same becomes due, such attorneys' fees as may be reasonable for such services, and such other reasonable expenses as Mortgagee may have incurred in connection therewith, and if such fees and expenses are paid or incurred by Mortgagee, the same shall be secured by the lien of this Mortgage in addition to the indebtedness specially secured hereby, and shall

bear interest from the date it is paid or incurred and shall be at once due and payable.

(10) Notwithstanding that the assignment of awards hereinabove referred to shall be deemed self-executing, Mortgagor, after the allowance of a condemnation of claim or award, and the ascertainment of the amount due thereon, and the issuing of a warrant by the condemnor for the payment thereof, shall execute, at Mortgagee's request, and forthwith deliver to Mortgagee, a valid assignment in recordable form, assigning all of such condemnation claims, awards or damages to Mortgagee, but not in excess of the amount sufficient to pay, satisfy and discharge the principal sum of this Mortgage and any advances made by Mortgagee herein provided then remaining unpaid, with interest thereon at the rate specified herein, or in the note which this Mortgage secures, to the date of payment, whether such remaining principal sum is then due or not by the terms of said note or of this Mortgage.

(11) In the event of the enactment of any law by the State of Alabama, after the date of this Mortgage, deducting from the value of the Mortgaged Property for the purpose of taxation any lien thereon, or imposing any liability upon Mortgagee, in respect of the indebtedness secured hereby, or changing in any way the laws now in force for taxation of mortgages, or debts secured by mortgages, or the manner of collection of any such taxes, so as to affect this Mortgage, Mortgagor shall pay such obligations imposed on Mortgagee thereby or reimburse Mortgagee therefor and in the event Mortgagor fails to pay such obligation or to reimburse Mortgagee therefor, the whole of the principal sum secured by this Mortgage, together with the interest due thereon shall, at the option of the Mortgagee, without notice to any party, become immediately due and payable.

(12) Should the Mortgagor become insolvent or file a petition for relief or should an order for relief be granted against the Mortgagor pursuant to any provision of federal bankruptcy laws; or should a receiver of Mortgagor's property be appointed, or should Mortgagor intentionally damage or attempt to remove any improvements upon the Mortgaged Property, or should it be discovered after the execution and deliver of this Mortgage that there is a defect in the title to or a lien or encumbrance of any nature on said property prior to the lien hereof; or in case of an error or defect in the above described notes or this Mortgage or in the execution or the acknowledgment thereof; and if Mortgagor shall fail for thirty (30) days after demand by Mortgagee, or other holder or holders of said indebtedness, to correct such defects in the title or to remove any such lien or encumbrance, or to correct any error in said notes or this Mortgage or its execution or to have such receiver discharged, then, upon any such default, failure or contingency, Mortgagee, or other holder or holders of said indebtedness, or any part thereof, shall have the option or right, without notice or demand, to declare all said indebtedness then remaining unpaid immediately due and payable.

(13) If Mortgagor shall default in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions hereof, Mortgagee may peaceably take possession of the Mortgaged Property or any part thereof and collect the rent, income and profits therefrom, either with or without the appointment of a receiver, and use, operate, manage and control said property. Upon any such default, Mortgagee shall be entitled, as a matter of right, without notice to any other person and without regard to the adequacy of the security or the solvency of the Mortgagor, to the appointment of a receiver. Any rents, income and profits collected by Mortgagee prior to foreclosure of this Mortgage, less the cost of collecting the same, including any real estate commission or attorneys' fees incurred, shall be credited first to advances

BOOK 431 PAGE 781

with interest thereon, then to interest due on the principal indebtedness, and the remainder, if any, to the principal debt hereby secured.

BOOK 431 PAGE 782

(14) If Mortgagor shall fail to pay, or cause to be paid, the whole or any portion of the principal sum, or any installment of interest thereon, or any other sum the payment of which is hereby secured, as they or any of them mature, either by lapse of time or otherwise, or should default be made in the payment of any mechanic's lien, materialman's lien, insurance premiums, taxes or assessments now or which may hereafter become levied against, or which may become a lien on, any of the Mortgaged Property, or should default be made in any of the covenants, conditions and agreements herein contained, then and in that event the whole of said principal sum, with interest thereon, and any other sums secured hereby, shall at the option of the then-holder of said indebtedness, be and become immediately due and payable, and the Mortgagee shall have the right to enter upon and take possession of the Mortgaged Property and after, or without, taking such possession of the same, sell the Mortgaged Property en masse or in parcels, as Mortgagee may deem best, at public outcry, in front of the courthouse door of the county wherein said property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place and terms of such sale by publication once a week for three successive weeks in some newspaper published in said county, and, upon payment of the purchase money the Mortgagee or any person conducting said sale for it is authorized and empowered to execute to the purchaser at said sale a deed, bill of sale or other appropriate instrument to the property so purchased in the name and on behalf of the Mortgagor and the certificate of the holder of the mortgage indebtedness appointing said auctioneer to make such sale, shall be prima facie evidence of his authority in the premises, or the equity of redemption from this Mortgage may be foreclosed by suit in any court of competent jurisdiction as now provided by law in the case of past due mortgages, and Mortgagee, or the then-holder of the indebtedness thereby secured, may bid at any such sale and become the purchaser of said property if the highest bidder therefor. Mortgagee may conduct any number of sales from time to time, and the power of sale hereby granted shall not be exhausted by any one or more such sales as to any part of the Mortgaged Property remaining unsold, but shall continue unimpaired until all the Mortgaged Property shall have been sold or all indebtedness secured hereby paid. The proceeds of any such sale shall be applied (a) to the expenses incurred in making the sale and in all prior efforts to effect collection of the indebtedness secured hereby, including a reasonable attorney's fee, or reasonable attorneys' fees, for such services as may be, or have been, necessary in any one or more of the foreclosure of this Mortgage, of the collection of said indebtedness, and of the pursuit of any efforts theretofore directed to that end, including, but without limitation to, obtaining possession of the Mortgaged Property or any part thereof, the appointment of a receiver therefor or the defense of any proceedings instituted by Mortgagor or anyone liable for said indebtedness or interested in the Mortgaged Property to prevent or delay, by any means, the exercise of said power of sale on the foreclosure of this Mortgage; (b) to the payment of whatever sum or sums Mortgagee may have paid out or become liable to pay, in carrying out the provisions of this Mortgage, together with interest thereon; (c) to the payment and satisfaction of said principal indebtedness and the interest thereon to the day of sale; (d) to the payment of any damages suffered by Mortgagee; and (e) the balance, if any, shall be paid over to the Mortgagor or Mortgagor's successors or assigns. In any event, the purchaser under the foreclosure sale, as provided herein, shall be under no obligation to see to the proper application of the purchase money.

(15) It is expressly agreed that any indebtedness at any time secured hereby may be extended, rearranged or renewed, and that any part of the security herein described may be waived or released without in anywise altering, varying or diminishing the force, effect, or lien of this Mortgage; and that this Mortgage shall continue as a lien on all of the

Mortgaged Property and rights covered hereby and not expressly released until all sums with interests and charges hereby secured are fully paid; and no other security now existing or hereafter taken to secure the payment of said indebtedness or any part thereof shall in any manner be impaired or affected by the execution of this Mortgage; and no security subsequently taken by Mortgagee or any holder or holders of said indebtedness shall in any manner impair or affect the security given by this Mortgage; and all security for the payment of said indebtedness or any part thereof shall be taken, considered and held as cumulative.

(16) Mortgagor agrees for itself and any and all persons or concerns claiming by, through or under Mortgagor, that if it or any one or more of them shall hold possession of the above described property or any part thereof subsequent to foreclosure hereunder, the parties so holding possession, shall become and be considered as tenants at will of the purchaser or purchasers at such foreclosure sale; and any such tenant failing or refusing to surrender possession upon demand shall be guilty of forcible detainer and shall be liable to such purchaser or purchasers for reasonable rental of said premises, and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages which may be sustained by any such tenant as a result thereof being hereby expressly waived.

(17) Wherever and whenever in this Mortgage it shall be required or permitted that notice or demand be given or served by any party, such notice or demand shall be given or served, and shall not be deemed to have been given or served, unless in writing and forwarded by registered or certified mail, return receipt requested, addressed to the Mortgagor and Mortgagee at the respective addresses set forth above.

(18) Singular or plural words used herein to designate the Mortgagor shall be construed to refer to the maker or makers of this Mortgage, whether one or more, and all covenants and agreements herein contained shall bind the successors and assigns of the Mortgagor and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of its successors and assigns.

(19) This Mortgage shall constitute a security agreement under the Alabama Uniform Commercial Code to the extent that such Code is applicable to the creation of a security interest in the Mortgaged Property or parts thereof. A photographic or other reproduction of this signed Mortgage may be used as a financing statement.

(20) No failure of Mortgage to exercise any option herein given to declare the maturity of the debt hereby secured shall be taken or construed as a waiver of its right to exercise such option or to declare such maturity by reason of any past, present or future default on the part of the Mortgagor; and the procurement of insurance or the payment of taxes or other liens, debts or charges by Mortgagee shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness hereby secured by reason of the failure of the Mortgagor to procure such insurance or to pay such taxes, debts, liens or charges.

(21) The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of the Mortgagee hereunder are cumulative and not alternative, and are in addition to those provided by law, including without limitation, those with respect to personal property provided by the Alabama Uniform Commercial Code.

BOOK
431 PAGE 783

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed in its name and its corporate seal to be hereunto affixed and attested by its duly authorized officers as of the date hereinabove first written.

LUDLUM CORPORATION

By David E. Ludlum Jr.
Its President

ATTEST:

Cynthia Dianne Ludlum
Its Secretary

MORTGAGOR

STATE OF Alabama)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that David E. Ludlum, Jr., whose name as President of LUDLUM CORPORATION, a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 31st day of May, 1983.

William W. Johnson, Jr.
Notary Public

[NOTARIAL SEAL]

THIS INSTRUMENT WAS PREPARED BY
WILLIAM W. JOHNSON, JR.
1400 PARK PLACE TOWER
BIRMINGHAM, ALABAMA 35203

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1983 JUN -1 PM 12:05
JUDGE OF PROBATE
Rec 12.00
Ind 1.00
493.00
Mortgage - 480.00

BOOK 431 PAGE 784