

EQUIPMENT LEASE

No. 6648

LESSOR: COWIN EUCLID COMPANY, INC. - Birmingham & Mobile, Alabama
(Payment address: P. O. Box 623 - Birmingham, Ala., 35201)

LESSEE: M. E. Stricklin

(For corp., show location of principal place of business in state as shown in charter if equip. is in same state; otherwise insert actual business address. For individual, show res., for partnership, show place of business and also name & res. of each partner - (specify which).)

ADDRESS: Route 1

CITY, COUNTY, STATE: Shelby, Alabama

TELEPHONE:

SHIPPED TO: Sam - c/o U. S. Gypsum Quarry
Montevallo, Alabama

VIA Common Carrier Date & Time 10/4/66

Prepaid ☒ Collect ☐

JOB LOCATION (Address & County) Montevallo, Shelby County
& IDENTIFICATION & WORK Quarry Stripping

DESCRIPTION:

Lessor hereby leases to Lessee, and Lessee hires and takes from Lessor the following describes personal property (hereinafter, with all replacement parts, additions, repairs and accessories incorporated therein, and/or affixed thereto, referred to as "equipment"):

DESCRIPTION OF LEASED EQUIPMENT:
(describe fully, including attachments and supplies)

One New Euclid Model R-20 Rear Dump Truck

Brand Code	Serial Numbers	Single Shift Lease Rates per:		
		Day	Week	Month
97FD	47602			\$ 1,600.00

PLEASE RETURN EQUIPMENT ONLY DURING WORKING HOURS & ASK FOR RECEIPT

Lessee agrees to pay lessor for the right to use equipment, according to the rates written above until equipment is returned to lessor, except that regardless of the term of use, the total such payment may be more but shall not be less than that applicable to the minimum guaranteed lease period. All lease payments shall be paid at lessor's office in advance each month, the first month's payment payable on lease date. If total lease period is less than one month, proportionately higher rates become applicable and a refund by lessor at end of lease may be required if advance payment proves incorrect.

SPECIAL CONDITIONS, mutually agreeable to lessor and lessee to be written here and initialed by both

If rental period extended to six months, rental rate to be \$1,500.00 per month.

Lessor agrees fully to each of the following terms and conditions:

- Title to equipment and replacements thereof or additions thereto remains in lessor at all times and lessee must take all necessary steps to preserve lessor's title. There is no additional or other agreement beyond this lease agreement, and this agreement includes no purchase option, nor do lease payments create for lessee any equity in the equipment. Lessee will see that equipment is not attached to other equipment or realty and that its status as personal property is preserved. Lessee will not alter, add or remove any insignia or lettering on the equipment. If lessor deems it necessary or desirable to have this lease recorded, then lessee will bear this expense in addition to lease payments. Lessor waives whatever rights he may have to use of investment tax credits, and passes these through for use by lessee, insofar as they are legally usable by lessee. Lessee agrees to place the equipment in operation at the location described above and to keep it at that location and may not move equipment from the location stated herein nor sublease to others without lessor's advance written permission.
- These lease rates cover single shift usage only, equal to 8 hours per day, 40 hours per week, or 176 hours per month. Lessee will pay pro-rata additional charges for additional usage and will notify lessor when such extra usage occurs. Lease charges begin to accrue as equipment leaves lessor's warehouse and continue until equipment is returned thereto; or if shipment is by common carrier, outgoing and incoming bill of lading dates will fix length of lease period, except that if a minimum lease period is indicated under "Additional Details of Lease" herein, the total lease charge shall not be less than that applicable to such minimum period regardless of dates of shipment and return. All transportation expense shall be borne by lessee in addition to primary lease charges which are FOB lessor's place of business. The warehouse of lessor from which equipment is released or shipped by lessor is the place to which equipment must be returned by lessee; equipment may not be returned to any other place of business of lessor without its written consent. Lessee will return equipment to lessor's place of business only during normal working hours and will notify lessor's authorized personnel; lessee will bear any expense due to improper return of equipment. Lease payments and obligations continue to accrue at all times, regardless of working conditions, weather conditions or equipment downtime.
- All expenses of operating, using, maintaining, storing, and transporting equipment incurred during the lease will be borne by lessee in addition to primary lease charges, including labor, fuel, repairs, lubricants, mileage, travel expenses, maintenance, insurance, licenses or taxes occasioned by lessee's use of equipment, and all other expenses.
- Subject to all the provisions of Paragraph 6 hereinafter, lessee will arrange and pay for all needed repairs during the lease period that result from any cause whatsoever, including, but not limited to, damage, misuse, wear on its job, and wear of expendable type parts; and lessee will arrange fully as his responsibility and expense any and all minor repairs required from any cause whatever.
- Upon the expiration of the term of this lease, or upon the termination for any cause whatever pursuant to the terms hereof, or otherwise, lessee agrees to return equipment to lessor in the same condition as first received by it, less only wear and tear that is normal under average working conditions with proper maintenance and operation, but in any case in good operating condition. If lessor is not notified otherwise and in writing within 48 hours of lessee's receipt of equipment, it is agreed that lessee specifically acknowledges receipt of equipment in good, safe and serviceable condition and fit for use; if notified otherwise, lessor shall have reasonable opportunity to make needed corrections before lessee has any right to cancel this lease; this is equally true whether delivered via common carrier or otherwise, but if by common carrier, and if there is damage, lessee will in addition render all reasonable assistance to lessor in establishing a claim against the carrier. Lessee agrees that on return of equipment, lessor may, at its convenience but without undue delay, inspect equipment and perform any repairs necessary to place the machine in the same condition as at beginning of lease, less wear and tear as defined above. Such repairs are not limited to but may also include cleaning and painting costs. Such repairs will be considered as needed repairs during this lease period as provided for in Paragraph 3 above for the purpose of determining whose expense the repairs will be.
- If equipment contains any rubber tires or crawler assemblies, these are exceptions to Paragraph 4 above in that lessee will bear all expense related to them whether or not a result of normal wear and tear. Repairs and replacements during lease are lessee's expense. At the end of the lease period either lessee or lessor will pay to the other an amount sufficient to compensate for any significant decrease or increase respectively in the total value of tires and/or crawler assemblies during the lease, the amount of payment to be determined by mutual agreement or by third party mutually selected. If the increase or decrease appears to be less than 10% altogether, or 2% per month, whichever is greater, no such payment need be made by either party.
- Lessor will accept as its expense during the lease only repairs that are in the nature of major rebuilding rather than minor repair and maintenance, provided such repairs are not due to damage or misuse or consumption on the job, and further provided that such repairs are performed by lessor or by others approved in writing in advance by lessor, and further provided that such repairs are not a reasonable and expected cost of using the equipment, and further provided that such repairs do not consist of or relate to tire or crawler assemblies, and also provided that lessor may cancel this lease as an alternative to accepting or making any repair as its expense, all rent and other charges to cancellation date remaining payable by lessee, including return transportation charges.
- In the event the lessee accepts the equipment, as herein provided, and thereafter the said equipment proves defective or unfit for use because of accident or otherwise, or, if for any other reason lessee desires to discontinue the use of said equipment, the only remedy of lessee shall be to return the equipment to lessor and terminate this contract as herein elsewhere provided by paying all rental charges and other charges herein provided for, which in no event shall be less than the transportation charges on said equipment and the minimum rental herein provided for.

DRAY COPY

BR

Cowin Euclid Co. Inc.
P.O. Box 623 - B'ham

8. The lessee further agrees to indemnify, protect and save harmless the lessor from and against any and all loss, damage, expense, penalty, claim, action or cause of action lessor may suffer or have made or filed against it, on account of any death or injury to person or damage to property of any character whatsoever occasioned directly or indirectly by the operation, handling or transportation of any of the equipment during the rental period, and while said equipment is in the possession, actual or constructive, or under the custody and control of lessee. The lessor shall not be liable in any event to the lessee for any loss, delay or damage of any kind or character resulting from defects in, or the inefficiency of, the equipment hereby leased or accidental breakage thereof.
9. The lessee agrees to pay and reimburse the lessor for all loss or damage to the equipment occasioned by negligence, wantonness, fire, theft, flood, accident, explosion, wreck, act of God or any other causes whatsoever that may occur during the life of this lease, and until such equipment has been returned into the possession of the lessor and accepted by it. The lessee further agrees to protect the lessor on this contract at lessee's expense with full insurance coverage. Such insurance coverage must be of the "all risk" type, and insure the equipment for its highest insurable value or the value shown herein, if any and the insurance coverage is not to be reduced by lease payments made. Lessee will see that lessor and mortgage holder, if any, are both named by endorsement or otherwise as loss payees as their interests may appear, and at their request, furnish them with evidence of such insurance. If lessee fails to assure lessor of such adequate insurance coverage, lessor may secure such coverage at lessee's expense.
10. Lessee agrees to operate the equipment in only a lawful manner, and in addition, to operate and maintain the equipment in a proper and suitable manner with competent operators, oilers and mechanics.
11. Lessor, not being the manufacturer of the equipment nor manufacturer's agent, makes no warranty against patent or latent defects in material, workmanship or capacity of the equipment, nor warranty that the equipment will satisfy the requirements of any law, rule, specification or contract which provides for specific machinery or operators, or special methods; all liabilities arising therefrom are assumed by lessee at its sole risk and expense. No oral agreement, guaranty, promise, condition, representations, or warranty shall be binding; all prior conversations, agreements or representations related hereto and/or to said equipment are integrated herein. No modification hereof shall be binding unless in writing signed by lessor. The one exception to this will be that insofar as any equipment furnished by lessor is new and under manufacturer's warranty, then lessor agrees that lessee is entitled to any rights and privileges accruing under manufacturer's warranty including the proper service inspection and return of defective parts for credit consideration.
12. It is agreed that the property herein leased may now or in the future be mortgaged by lessor to a financing institution under a Chattel Mortgage and lessor agrees to make any and all payments due under said mortgage; that upon lessor's failure to do so the lessee will have the right to pay the mortgage payments or to pay the rent due hereunder direct to the financing institution, and that any such rental payments made will be credited to the amount due under the mortgage; lessor and lessee both agree that the rights of both parties hereunder will be subject to the above described mortgage and the rights thereunder of the financing institution.
13. The lessee agrees to pay all rentals when they are due and for all services and materials furnished and all damages and sums due the lessor under this contract as soon as the loss occurs or services are rendered or materials are furnished. The taking of notes, or renewals thereof, covering rentals herein specified shall not in any manner whatsoever change or invalidate the terms and conditions of this contract.
14. In the event of lessee's default hereunder or violation of any terms and conditions herein, or lessee's becoming insolvent or committing an act of bankruptcy or if lessee ceases doing business as a going concern, or if a petition is filed by or against lessee under the Bankruptcy Act or any amendment thereto (including a petition for reorganization or any extension), or if lessee, without lessor's prior consent, attempts to remove or sell or transfer or encumber or sublet or part with the possession of said equipment, or any part thereof, or if lessor deems itself insecure, lessor and/or its agents may without notice or liability or legal process enter into any premises of or under control or jurisdiction of lessee or any agent of lessee where said equipment may be or by lessor is believed to be, and repossess the equipment, disconnecting and separating all thereof from any other property and using all force necessary or permitted by applicable law so to do; lessee hereby expressly waives all further rights to possession of the equipment and all claims for injury suffered through or loss caused by such repossession. Should any legal proceeding be instituted by lessor to recover any moneys due or to become due hereunder and/or for possession of the equipment, lessee shall pay a reasonable sum for attorney's fee and in respect to all the obligations in this agreement, the lessee waives all rights of exemption under the Constitution or laws of any state whatsoever. Repossession of the equipment or termination of this agreement terminates all rights, not obligations, of lessee under this lease contract, and lessee will pay lessor costs of repossession including transportation and storage.
15. The lessee agrees, whenever requested by lessor, to give lessor the exact location of all the equipment covered by this lease and further agrees to give lessor immediate notice of any levy or seizure attempted upon said equipment, and to indemnify lessor against all loss and damages caused by any such action. The lessor shall have the privilege at all times of entering any job, building or location where the equipment is being used for the purpose of inspection and reserves the privilege of removing said equipment on twenty-four hours' notice if in the opinion of lessor it is being overloaded or taxed beyond its capacity or in any manner being abused or neglected.
16. Lessee agrees that if any of the lease provisions are violated and lessor demands the return of the equipment that this lease shall constitute authority to the watchman or other persons responsible for the equipment to deliver all or any part of the equipment to the lessor or its agents.
17. The lessee agrees to pay any charges for work or inspection required by any labor union. The lessor may, at its option, refuse to do any repair work on the equipment in time of strike, or any other cause beyond its control, or in violation of any rule affecting the equipment. The lessor reserves the right to remove the equipment from the job at any time when, in its opinion, the equipment is in danger because of strikes or any other condition.
18. Neither this lease nor lessee's rights hereunder shall be assignable by lessee except with lessor's written consent; the conditions hereof shall bind any permitted successor and assignee of lessee. If lessor assigns the rents reserved herein or any or all of lessor's other rights hereunder, such assignee's rights shall be independent of any claim of lessee against lessor; lessee on receiving notice of any such assignment shall abide thereby and make payment as may therein be directed. Following such assignment the term "Lessor" shall be deemed to include or refer to Lessor's assignee.
19. All notices relating hereto shall be mailed registered to lessor or lessee at its respective address above shown or at any later address last known to the sender. In case of any default by lessee hereunder, lessor may at its election forthwith terminate this lease and all sums due and to become due hereunder shall, at the option of the lessor or any assignee of lessor, become payable forthwith. The fact that lessor does not so elect to terminate in the event of one or more defaults by lessee shall not be deemed a waiver by lessor of any of such defaults. This lease is irrevocable for the full term hereof and for the aggregate rental herein reserved, and the rent shall not abate by reason of termination of lessee's right of possession and/or the taking of possession by lessor or for any other reason, and delinquent installments of rental or other charges due lessor shall bear interest at the highest lawful rate until paid.
20. After any necessary repossession, lessor is free to use, sell or rent equipment in any manner without any reimbursement to or lessening of claims upon lessee.
21. Original term of this lease shall be the minimum guaranteed lease period shown above, or one day if no minimum period is shown under the heading, "Additional Details of Lease". In either case the term is extended automatically until equipment is actually returned as are lease obligations of lessee, in the event equipment is not returned on or before the end of the original term. After end of the original term, lessor has the right to demand return of the equipment at any time, provided lessee shall have a reasonable time to arrange return of equipment. Lessor may at any time beyond original term furnish alternate equipment and bring back equipment originally furnished, provided lessee is furnished equivalent equipment and is not unduly inconvenienced.
22. If in area where lease rates are shown, there are indications that there is "no charge", there is nevertheless consideration on both sides and all other terms and conditions herein remain just as valid.
23. Lessee has read and agrees to the various rates and other information shown above under the heading, "Additional Details of Lease", which is a part of this lease. Lessee acknowledges that it has read and received a true copy of this lease.
24. Wherever the term "lessee" is used herein, the same shall include the agents, servants, employees, and contractors of lessee.
25. It is expressly agreed that this lease has been entered into in the State of Alabama, that it is an Alabama contract, that it is to be performed in its entirety in the State of Alabama, and that all questions arising under this lease shall be resolved by the substantive laws of the State of Alabama.
26. This lease before becoming effective must be approved by an officer of lessor if a minimum term is specified that is longer than the automatic one day original term; if no minimum term is specified under the section herein labeled "Additional Details of Lease" then this lease may become effective upon the approval of any of the authorized personnel of lessor.

In witness whereof, lessee has executed this lease or caused this lease to be executed in its name and behalf by its undersigned duly authorized and empowered representative under seal and lessor has caused this lease to be executed in its name and behalf by its undersigned duly authorized and empowered representative under seal, all on the lease date indicated above.

Witness: [Signature]

M. E. STRICKLIN

By [Signature] (Seal)

Its _____

COWIN EUCLID COMPANY, INC.

By [Signature] (Seal)

Its V.P.

GUARANTOR'S AGREEMENT

For and in consideration of lessor [Signature] State of Ala. Shelby Co. Guaranty this instrument with lessee and as an inducement to lessor to make such lease with lessee, the undersigned, having read such lease and [Signature] hereby unconditionally guarantees to lessor the performance by lessee of all terms and conditions of such lease, and the undersigned unconditionally agrees to perform all terms and conditions of such lease in the event of default thereunder by lessee.

This 10-17 day of 19-66

RECORDED & \$ 150 MTG. TAX

\$ 60 DEED TAX HAS BEEN PD. ON THIS INSTRUMENT.

Conrad M. Fowler
JUDGE OF PROBATE

By _____ (Seal)

Its _____

60 35.00

650
3.50
10.00

294
BOOK 243 PAGE 43