

THE STATE OF ALABAMA

COUNTY OF SHELBY

2586
ALABAMA MORTGAGE

KNOW ALL MEN BY THESE PRESENTS:

That, whereas the undersigned Cole Equipment, Inc., an Alabama Corporation (hereinafter called the "Mortgagor", whether one or more), has become justly indebted to JEFFERSON FEDERAL SAVINGS & LOAN ASSOCIATION OF BIRMINGHAM (hereinafter called "Mortgagee") in the sum of NINE THOUSAND THREE HUNDRED AND NO/100 DOLLARS Dollars

(\$ 9,300.00), evidenced by a certain promissory note of even date herewith, payable to the order of the Mortgagee, with interest thereon from the date thereof according to the terms of the Note secured thereby; said principal and interest sum being payable according to the terms of said Note, with the balance of said principal and interest being due and payable on the 1st day of December, 19 98.

WHEREAS, the said Mortgagor is desirous of securing the prompt payment of said Note and the monthly payments hereinafter provided for, and any additional indebtedness accruing to the Mortgagee on account of any future payments, advances, or expenditures made by the Mortgagee as hereinafter provided:

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) to the undersigned Mortgagor, in hand paid by the Mortgagee, the receipt and sufficiency whereof is hereby acknowledged, and for the purpose of securing the prompt payment of said indebtedness, as it becomes due, does hereby grant, bargain, sell, assign and convey unto the said Mortgagee, the following described real property situated in SHELBY County, Alabama, to-wit:

For legal description see attachment, affixed hereto and made a part hereof as Exhibit "A", and set out herein as if the same had been set out in this place in full.

This is a Second Mortgage to mortgage from James E. Parrish and wife, Margaret C. Parrish to Molton, Allen & Williams, INC., dated 15th September 1976 and recorded to Mortgage Book 357, Page 887, in Probate Office of Shelby County, Alabama and assigned to First Federal Savings and Loan Association of Gadsden be assignment dated 175h February 1977 and recorded in Misc. Book 19, Page 151, in the Probate Office.

✓ The proceeds of this loan have been applied on the purchase price of the property herein conveyed to mortgagors simultaneously herewith.

TOGETHER with all and singular the fixtures appurtenant thereto, which shall include, in so far as they now are or may hereafter belong to or be used with the premises or any buildings or improvements thereon and whether attached or detached; all lighting, heating, cooling, ventilating, air-conditioning, incinerating, sprinkling, and plumbing fixtures; irrigating, water, and power systems; engines and machinery, boilers, ranges, furnaces, oil burners, or units thereof; elevators and motors; refrigeration plants or units; kitchen cabinets; cooking appliances; wall beds; storm windows and doors; window and door screens; awnings; window blinds; shrubbery; and all property now or hereafter attached to or reasonably necessary to the use of the premises, all of which shall be deemed to be fixtures and shall be part of the security for the indebtedness herein mentioned and shall be covered by this Mortgage; and together with all and singular the buildings, improvements, ways, streets, alleys, passages, waters, water courses, rights, liberties, privileges, easements, tenements, hereditaments, and appurtenances thereunto appertaining, and the reversions and remainders, rents, issues, and profits thereof, all of the said property, whether real or personal.

TO HAVE AND TO HOLD the same with all the rights, privileges, and appurtenances thereunto belonging or in anywise appertaining unto the said Mortgagee, the successors and assigns of the Mortgagee forever.

And the Mortgagor hereby covenants that Mortgagor is seized of said real property in fee simple, and has a good right to sell and convey the same; that the property is free from all encumbrances and that the Mortgagor, and Mortgagor's heirs, executors, administrators, next of kin, and assigns will forever defend the same unto the Mortgagee and assigns against the claims of all persons whomsoever;

THIS MORTGAGE IS MADE, however, subject to the following covenants, conditions, and agreements, that is to say:

1. Mortgagor shall pay the indebtedness evidenced by said Note and interest thereon when and as it shall become due, whether in due course or under any condition, covenant, or agreement herein contained, together with any other indebtedness which Mortgagor may owe to Mortgagee.

2. Mortgagor shall immediately pay to Mortgagee all sums, including costs, expenses, reasonable agent's or attorney's fees which it may expend or become obligated to pay in any proceedings, legal or otherwise, to prevent the commission of waste, or to which it is made a party because of its interest in said property, or to establish or sustain the lien of this Mortgage or its priority, or to defend against liens, claims, rights, estates, easements, or restrictions, asserting priority to this Mortgage; or in payment, settlement, discharge, or release of any asserted lien, claim, right, easement, or restriction made upon advice of competent counsel that the same is superior to the lien of this Mortgage even if subsequently developed that such advice was erroneous either in law or in fact; or to enforce any obligation of or to foreclose this Mortgage, or to recover any sums hereby secured; and for payment of all sums due under this paragraph including interest at the maximum legal rate of interest until paid, this Mortgage shall stand as security in like manner and effect as for the payment of the said indebtedness.

3. Mortgagor shall pay as the same shall become due all taxes and assessments that may be levied or accrue upon said property or any part thereof, or upon Mortgagee's interest therein or upon this Mortgage or the indebtedness or the evidence of

indebtedness secured hereby and all other charges that may become liens upon said premises, and not to permit any lien, which might take precedence over the lien of this Mortgage, to accrue and remain on said premises, or any part thereof, or on the improvements thereon.

4. Mortgagor will continuously maintain hazard insurance, of such type or types and amounts as Mortgagee may from time to time require on the improvements now or hereafter on said premises, and he will pay promptly when due any premiums therefor. All insurance shall be carried in companies approved by the Mortgagee and the policies and renewals thereof shall be delivered to and held by the Mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to the Mortgagee. Also Mortgagor shall deliver to the Mortgagee receipts for premiums paid thereon at least ten days prior to the due date of such premiums. In event of loss, Mortgagor will give immediate notice by mail to the Mortgagee, who may make proof of loss if not made promptly by the Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Mortgagee instead of to the Mortgagor and the Mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by the Mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damages. In event of foreclosure of this Mortgage or other transfer of title to the mortgaged property in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

5. If the Mortgagor fails to insure said property as hereinabove provided, or to pay all or any part of the said taxes or assessments so levied, accrued, or assessed, or fails to pay immediately and discharge any and all liens, debts, and charges which might become liens superior to the lien of this Mortgage, or to keep the premises in good condition and repair, all as provided herein, the Mortgagee may, at its option, insure said property and pay said taxes, assessments, debts, liens, and charges, or enter upon the premises and make such repairs as it may deem necessary, and any money which the Mortgagee shall have so paid or become obligated to pay shall constitute a debt to the Mortgagee additional to the debt hereby specially secured, shall be secured by this Mortgage, shall bear interest at the maximum legal rate per annum from date paid or incurred, and, at the option of the Mortgagee, shall be immediately due and payable. Mortgagee shall have no obligation to procure such insurance, to pay such taxes or assessments or make such repairs.

6. The Mortgagee in its sole discretion may by agreement with the Mortgagor extend the time for the repayment to it for any sum or sums advanced by the Mortgagee for the alteration, modernization, improvement, maintenance, or repair of said premises, for taxes or assessments against the same and for any other purpose authorized hereunder; and upon the request of the Mortgagor the Mortgagor shall execute and deliver a supplemental Note or Notes for the sum or sums advanced by the Mortgagee for such purposes or any other such purposes. Said Note or Notes shall be secured hereby on a parity with and as fully as if the advance evidenced thereby were included in the original principal indebtedness. Said supplemental Note or Notes shall bear interest at the rate provided for in the principal indebtedness and shall be payable in approximately equal monthly payments for such period as may be agreed upon by the creditor and debtor. Failing to agree on the maturity, the sum or sums so advanced shall be due and payable thirty (30) days after demand by the Mortgagee. In no event shall the maturity extend beyond the ultimate maturity of the original principal indebtedness, provided, however, that the Mortgagee shall be under no obligation whatever to waive any of the provisions of this instrument with respect to the reimbursement of the Mortgagee for any of the outlays made by it, and unless such extension is made by Notes executed by the Mortgagor and accepted by the Mortgagee as herein provided, the Mortgagor shall repay the Mortgagee the amount together with interest on each and every payment or advancement made by the Mortgagee on or before the next installment of said mortgage debt as provided in said principal Note hereby secured.

7. No failure of the Mortgagee 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 or present default on the part of the Mortgagor; and the procurement of insurance or of the payment of taxes or other liens, debts, or charges by the 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; and the lien of this instrument shall remain in full force and effect during any postponement or extension of the time of payment of the indebtedness or any part thereof secured hereby.

8. The Mortgagor agrees that with the monthly payments of principal and interest, Mortgagor will pay to the Noteholder a pro rata portion of the taxes, assessments and insurance premiums next to become due, as estimated by the Noteholder. Any deficit shall immediately be paid to the Noteholder by the Mortgagor of the premises. Money so held shall not bear interest, and upon default will be applied by the Noteholder on account of the indebtedness secured by this Mortgage.

9. If the Mortgagor shall well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable and shall do and perform all acts and agreements to be done and performed by the Mortgagor under the terms and provisions of this Mortgage, then this conveyance shall be and become null and void.

10. If the Mortgagor shall fail to pay, or cause to be paid, as it matures, the indebtedness hereby secured or any part thereof, according to the terms thereof, or if the Mortgagor shall fail to do or perform any other act or thing herein required or agreed to be done or performed, or if the interest of the Mortgagee in said property becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon, then, in any such event, the whole indebtedness hereby secured shall, at the option of the Mortgagee, and without notice, become immediately due and payable and this Mortgage subject to foreclosure; and in such event the Mortgagee shall have the right and is hereby authorized to enter upon and take possession of said property, and, after or without taking possession, to sell the same before the Main Entrance of the Courthouse at the county seat of the said county in which said property is located in the State of Alabama, at public outcry, for cash, first giving notice of the time, place, and terms of said sale by publication once a week for three successive weeks prior to said sale in some newspaper published in said county and state in which said property is located, and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized to execute to the purchaser at said sale a deed to the property so purchased, and such purchaser shall not be held to inquire as to the application of the proceeds of such sale. The Mortgagee may bid at the sale and purchase said property, if the highest bidder therefor. At said foreclosure sale the premises may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner as Mortgagee may elect. The presence of any of the above described security at the place of sale is expressly waived.

11. The proceeds of a foreclosure sale, judicial or otherwise, shall be applied: First, to the expenses of advertising and selling, including reasonable attorney's fees; second, to the repayment of any money, with interest thereon, which the Mortgagee may have paid or become liable to pay or which it may then be necessary to pay for taxes, assessments, insurance and other charges, liens, or debts as hereinabove provided; third, to the payment and satisfaction of the indebtedness hereby specially secured with interest, but interest to date of sale only shall be charged; fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the premises at the time of the sale after deducting any expense of ascertaining who is such owner.

12. Mortgagor hereby assigns to Mortgagee any and all awards or damages, actual and consequential, for the taking of any portion or all of the mortgaged premises, by the exercise of the right of eminent domain or condemnation, including but not limited to, damages or awards for changes to the grades of streets, or acquiring title to streets. The proceeds of such awards or damages, when received by Mortgagee, shall be applied at the option of Mortgagee either in reduction of the mortgage indebtedness or shall be paid to Mortgagor or its assigns. Notwithstanding that the assignment of awards referred to herein shall be deemed to be self-executing, the Mortgagor, after the allowance of a condemnation 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 the Mortgagee's request, and forthwith deliver to Mortgagee, a valid assignment in recordable form, assigning all of such condemnation claims, awards or damages to the Mortgagee, but not in excess of an amount sufficient to pay, satisfy and discharge the principal sum of this Mortgage 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.

13. Mortgagor shall keep the premises in good condition and repair, reasonable wear and tear excepted; shall not permit nor perform any act which would in any way impair the value of the premises; shall not remove any fixture nor remove or demolish any building or improvement located on the above described land without the written consent of Mortgagee; and shall neither commit nor permit waste of the premises.

14. If the Mortgagor shall make default in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions hereof, the Mortgagee may at its option take immediate possession of the mortgaged premises and proceed to collect the rent, income, and profits from the premises, either with or without the appointment of a receiver. Any rents, income, and profits collected by the Mortgagee prior to foreclosure of this indebtedness, less the cost of collecting the same, including any real estate commission or attorney's fees incurred, shall be credited on the advances with interest thereon, or in reduction of any indebtedness, including interest thereon, hereby secured in such manner or proportion as Mortgagee may elect.

15. Mortgagor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and the Mortgagor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the premises be set off against any part of the indebtedness secured hereby.

16. After foreclosure of this Mortgage, Mortgagor and all holding under him shall become and be conclusively presumed to be tenants at will of the purchaser at the foreclosure sale.

17. Any promise made by Mortgagor herein to pay money may be enforced by a suit at law, and the security of this Mortgage shall not be waived thereby, and as to such debts the Mortgagor waives all rights of exemption under the law and agrees to pay a reasonable attorney's fee for the collection thereof.

18. No delay or failure of Mortgagee to exercise any option herein given or reserved shall constitute a waiver of such option or estop Mortgagee from afterwards exercising same or any other option at any time and the payment; or contracting to pay by Mortgagee of anything Mortgagor has herein agreed to pay shall not constitute a waiver of the default of Mortgagor in failing to make said payments and shall not estop Mortgagee from foreclosing this Mortgage on account of such failure of Mortgagor.

Exhibit "A"

A tract of land situated in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ and in SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 2 Township 22 South, Range 3 West, described as follows: Begin at the intersection of the South Boundary of Section 2 Township 22 South, Range 3 West, with the East right of way boundary of Alabama State Highway #119 said intersection being 2887.00 feet, more or less, West of the SE corner of said Section; thence Northerly along said East right of way 150.00 feet; thence Easterly and parallel with South boundary 297.00 feet; thence Southerly and parallel with East boundary of said right of way 150.00 feet to intersection with South boundary of said Section 2; thence Westerly along South boundary 297.00 feet to point of beginning.

00/10/029491

Loan Number

11/16/83

Date

Byrd C. President
Cole Equipment, Inc.

19. Mortgagor shall perform every obligation of the lessor and shall enforce every obligation of the lessee in every lease that is assigned to Mortgagee or any tenancy in which the rents are assigned to Mortgagee and shall not modify, alter, waive or cancel any such lease or any part thereof, nor anticipate for more than one month any rents that may be collectible under such lease or that may have been assigned to Mortgagee and shall not assign any such lease or any such rents.

20. If all or any part of the hereinabove described real property, or any interest therein, is sold, transferred or conveyed by Mortgagor, without Mortgagee's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less, not containing an option to purchase, Mortgagee may, at its option, declare all the sums secured by this Mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer, Mortgagee and the person to whom the real property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Mortgagee, and that the interest payable on the sums secured by this Mortgage shall be at a rate as Mortgagee shall request.

If Mortgagee exercises such option to accelerate, Mortgagee shall mail Mortgagor notice of acceleration by regular United States mail, postage prepaid. Such notice shall provide a period of not less than thirty (30) days from the date the notice is mailed within which Mortgagor may pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice or demand on Mortgagor, invoke any remedies permitted to it under the terms of the within Mortgage and the Note which same secures, including the remedy of foreclosure, and such other remedies as may be afforded to Mortgagee by law or equity, and such remedies may be exercised concurrently, independently or successfully.

21. At Mortgagee's option, Mortgagor will pay a "late charge" not exceeding four percent (4%) of any installment when paid more than fifteen (15) days after the due date thereof, to cover the extra expense involved in handling delinquent payments, but such "late charge" shall not be payable out of the proceeds of any sale made to satisfy the indebtedness secured hereby unless such proceeds are sufficient to discharge the entire indebtedness and all proper costs and expenses secured thereby.

22. The covenants, conditions and agreements herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto, subject to the provisions of paragraph 20 hereof. Whenever used, the singular shall include the plural, the plural the singular, the use of any gender shall include all genders, the term "Mortgagee" shall include any payee of the indebtedness hereby secured or any transferee thereof whether by operation of law or otherwise. If Mortgagors consist of more than one person, such persons shall be jointly and severally bound. Whenever and wherever the word "Mortgagors" is used herein, it shall mean any one or more of the Mortgagors named herein.

23. This conveyance shall constitute a security agreement under the Uniform Commercial Code as may from time to time be in force in the State of Alabama.

24. Anything to the contrary notwithstanding contained herein or in the Mortgage Note which is secured hereby, the total liability for payment in the nature of interest shall not exceed the limits now imposed by the usury laws of the State of Alabama.

25. Mortgagor covenants and agrees that Mortgagee shall have access to and the right to inspect said premises at all reasonable times.

26. Mortgagor covenants and agrees that it will not expand or extend the improvements except with the written consent of the Mortgagee.

27. Mortgagor further covenants and agrees that it will not construct, restore, add to or alter any building or other improvements or any extensions thereof, nor consent to or permit any such construction, restoration, addition or alteration without Mortgagee's written consent.

28. This Mortgage shall be governed by and construed according to the laws of the State of Alabama.

IN WITNESS WHEREOF, each of the Mortgagors has hereunto set his or her hand and seal or caused this Mortgage to be executed by its duly authorized officers and its seal to be hereunto affixed, this 16th day of November, 1983.

Cole Equipment Inc., an Alabama Corporation (SEAL)
Barry Cole (SEAL)
President

STATE OF _____
COUNTY OF _____

MTG TAX 13.95
Fee 6.00
Jud 1.00
20.95

I, _____, a Notary Public in and for said County, in said State, hereby certify that _____ whose name _____ signed to the foregoing conveyance, and who _____ known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, _____ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 19____.

Notary Public

STATE OF ALABAMA
COUNTY OF SHELBY

I, the undersigned _____, a Notary Public in and for said County, in said State, hereby certify that Barry Cole _____ whose name as President of Cole Equipment, Inc., an Alabama Corporation _____, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, 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 16th day of November 1983.

Notary Public

THIS INSTRUMENT PREPARED BY: Karen S. Doty
215 North 21st Street
Birmingham, AL 35203

MY COMMISSION EXPIRES JUNE 24, 1985