

MORTGAGE TO SECURE GUARANTY

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STATE OF ALABAMA
COUNTY OF SHELBY

THIS INDENTURE, made and entered into by and between _____

David E. O'Hara, Jr. and Elva J. O'Hara, HUSBAND & WIFE

(hereinafter called "Mortgagor" whether one or more) and First Alabama Bank

(hereinafter called "Mortgagee")

WITNESSETH:

WHEREAS, Mortgagor has guaranteed the due and prompt payment of that certain indebtedness owed by _____

Gulf Coast Pump & Equipment, Inc. (hereinafter

called "Borrower") to Mortgagee all as more particularly provided in that certain Guaranty Agreement executed by Mortgagor

in favor of Mortgagee on the 2nd day of March, 19 89

(which Guaranty Agreement is hereinafter referred to as the Guaranty) and Mortgagor has agreed to secure the performance of his obligations under the Guaranty by the execution and delivery of these presents:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Mortgagor for and in consideration of the premises, and in order to secure the performance by Mortgagor of his obligations to Mortgagee under the Guaranty and in order to secure the payment of the indebtedness secured hereby, does hereby, subject as hereinafter provided, GRANT, BAR-GAIN, SELL AND CONVEY unto the Mortgagee the real property in the County of Shelby State of Alabama, more particularly described as:

Lot 6, in Block 3, according to the Survey of Dearing Downs, Second Addition, as recorded in Map Book 9, Page 33, in the Probate Office of Shelby County, Alabama

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THIS INSTRUMENT PREPARED BY:

✓ Scotty J. Selph
Assistant Vice President
First Alabama Bank
P. O. Box 2527
Mobile, Ala. 36622

This Mortgage shall secure the following: The performance by the Mortgagor of all obligations to Mortgagee under the Guaranty; any sums which may hereafter be advanced by Mortgagee under the terms hereof on account of the failure of Mortgagor to comply with the covenants or agreements of this Mortgage or to perform the Mortgagor's duties hereunder; and the payment and performance of any other obligations and liabilities of Mortgagor to Mortgagee whether now existing or hereafter incurred, including, but without limiting the foregoing, any such liability or obligation as guarantor, surety, endorser, and whether contingent or otherwise. The term "indebtedness secured hereby" as used in this Mortgage, shall mean and include all of the foregoing referred to in this paragraph.

Notwithstanding the preceding paragraph and any other provision hereof to the contrary, except for advances under the terms hereof on account of the failure of Mortgagor to comply with the covenants or agreements of this mortgage or to perform the Mortgagor's duties hereunder, this mortgage does not secure other or future indebtedness of Mortgagor or Borrower to Mortgagee incurred primarily for personal, family or household purposes, and if the funds advanced by Mortgagee to Borrower or Mortgagor are to be used by the Mortgagor or Borrower primarily for personal, family or household purposes, the Mortgagee hereby expressly waives any other security interest or mortgage previously given by the Mortgagor to the Mortgagee which would otherwise secure the Mortgagor's obligations hereunder.

Providing always, and these presents are upon the express condition, that if the Mortgagor shall duly and promptly perform all obligations of the Mortgagor to the Mortgagee under the Guaranty and shall pay all other indebtedness secured hereby and shall perform the covenants and agreements herein contained, then these presents shall be void; otherwise, they shall remain in full force and effect.

Upon default in the payment of the Note or other indebtedness described in the Guaranty or any indebtedness secured hereby or upon default by the Mortgagor in the performance of any of the covenants and agreements contained herein or in the Guaranty or in the performance of any other covenant, agreement or obligation with Mortgagee, the Mortgagee may declare the entire indebtedness immediately due and payable, and the Mortgagor hereby vests the Mortgagee with full power and authority, upon the happening of any such default, to sell the property conveyed hereby at public outcry at the front entrance of the Court House of the County in which said property is located, for cash to the highest bidder, after first giving thirty (30) days notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) consecutive weeks, in a newspaper published in said County; to make proper conveyance to the purchaser in the name of the Mortgagor; and the proceeds of said sale to apply, first, to the payment of the costs of said sale, including a reasonable attorney's fee; second, to the payment of the amount of any indebtedness secured hereby together with the unpaid interest thereon to the date of sale, and any amount that may be due the Mortgagee by virtue of any of the special liens herein declared; and third, the balance, if any, to be paid over to the said Mortgagor.

No failure of the Mortgagee to exercise any option herein given to declare the maturity of any or all of the indebtedness secured hereby shall be taken or construed as a waiver of Mortgagee's 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 the Mortgagee shall not be taken or construed as a waiver of its right to declare the maturity of any or all of the indebtedness secured hereby by reason of the failure of the Mortgagor to procure such insurance or to pay such taxes, debts, liens, or charges.

And except as herein provided, the Mortgagor hereby covenants with the Mortgagee that the Mortgagor is seized of an indefeasible estate in fee simple in and to the above described property, is in the peaceable possession thereof, and has a good and lawful right to mortgage and convey the same; that said property is free from all encumbrances except as herein provided; and the Mortgagor hereby warrants and will forever defend the title to said property unto the Mortgagee, against the lawful claims of all persons whomsoever.

The conveyance of the above described property and all covenants and warranties of the Mortgagor hereunder (whether express, implied or statutory) are made subject to the lien of taxes hereinafter falling due, and to the following:

And the Mortgagor further expressly agrees and covenants:

1. To pay when due any and all indebtedness secured hereby and in all respects to fully comply with all of the terms and

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2. To pay promptly all taxes, assessments, liens or other charges which may be, or become, effective against said property regardless of whether or not the same may be excepted from the warranties herein, together with all penalties, costs, and other expenses incurred, or which may accrue, in connection therewith;

3. To keep any buildings or other improvements now or which may hereafter be erected upon said property in good repair and insured against fire and lightning and against hazards covered by the form of insurance contract generally known as "extended coverage," and also the form of coverage known as "all physical loss" if required by the Mortgagee, by policies issued by good and solvent insurance companies approved by the Mortgagee; which policies shall be deposited with the Mortgagee and shall provide that loss, if any, shall be payable to the Mortgagee as the Mortgagee's interest may appear, such policies to be in such amounts, not exceeding the insurable value of the said buildings or other improvements, as may be required by the Mortgagee; and if the amount due on the indebtedness secured hereby is equal to or exceeds any proceeds paid under any of said policies of insurance, on the date of payment thereof, such proceeds shall be applied to the reduction or satisfaction of said indebtedness;

4. That the Mortgagor shall commit, permit or suffer no waste, impairment or deterioration of said property or any part thereof and shall permit nothing to be done to said property that may in any way weaken or impair the value thereof;

5. That the Mortgagor shall not sell, assign, transfer or convey title to said property, nor make or allow to be made any change in the possession, or character of possession thereof without the prior written approval of the Mortgagee, and it is understood and agreed that the Mortgagee may, as a condition to giving such written approval, increase the rate of interest on any indebtedness secured hereby up to the then current rate charged by Mortgagee, and require payment of all recording fees and other reasonable expenses incurred by Mortgagee in effecting a change of its records reflecting the new ownership;

6. That if the Mortgagee shall, upon the happening of any default hereunder, resort to litigation for the recovery of the sums secured hereby, or employ an attorney to collect said sums or to foreclose this mortgage under the power of sale herein or by court proceedings, the Mortgagor will pay all reasonable costs, expenses, and attorney's fees thus incurred; and said costs, expenses, and attorney's fees, and any other sum or sums due the Mortgagee by virtue of any of the special liens herein declared, shall be considered as an indebtedness secured hereby and may be included in any judgment or decree rendered in connection with said litigation;

7. That if the Mortgagor fails to perform any of the duties herein specified, the Mortgagee may (but shall have no duty to) perform or remedy the same, and for any sums expended by the Mortgagee in this behalf the Mortgagee shall have an additional lien, secured by these presents, on said property;

8. If the Mortgagor shall default in the payment of any of the indebtedness secured hereby, or in the performance of any of the terms or conditions herein, all the rents, income and profits from the property conveyed hereby are hereby transferred, assigned, set over, and conveyed to the Mortgagee, and the Mortgagee may proceed to collect the rent, income, and profits from such premises upon such default, either with or without the appointment of a receiver; but the Mortgagee shall not thereby become bound by the terms of any lease then existing on such premises by electing to collect the rents thereunder, but may at any time terminate the same. Any rents, income, and profits collected by the Mortgagee prior to foreclosure of this mortgage, less the cost of collecting the same, including any real estate commission or attorney's fee incurred, shall be credited first, on any advances made hereunder with interest thereon, then upon the interest, and the remainder, if any, upon the principal of the indebtedness secured hereby;

9. That in the event of any dispute or litigation arising over the title to, or possession of, said property the Mortgagee may take part therein and prosecute or defend said litigation, and for any sum or sums expended by the Mortgagee in this behalf, including but not limited to reasonable attorney's fees, the Mortgagee shall have an additional lien, secured by these presents, on said property;

10. That Mortgagee shall not be required to sell the real property conveyed hereby in separate parcels or lots, but, at any foreclosure sale hereunder, may sell all of such real property as a whole;

11. That any personal property conveyed hereby may be sold separately or at the same time and place as the real property conveyed hereby, without moving such personal property to the place of sale;

12. That at any sale under the powers herein the Mortgagee may bid for and purchase said property like a stranger hereto, and in the event the Mortgagee should become the purchaser at said sale, either the auctioneer conducting the sale or the Mortgagee may execute a deed to the Mortgagee in the name of the Mortgagor as attorney in fact for Mortgagor;

13. That if any provisions hereof should be held unenforceable or void, then Mortgagor and Mortgagee hereby intend and represent that such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Mortgage;

14. That the word "Mortgagor" wherever herein used, shall include all mortgagors herein named, and their respective heirs, executors, administrators, successors and assigns, and the word "Mortgagee" wherever herein used, shall include the mortgagees herein named, and its successors and assigns. The masculine pronoun, wherever herein used, shall mean and include the appropriate feminine or neuter pronoun. Wherever herein used the singular number shall include the plural, and the plural number shall include the singular.

IN WITNESS WHEREOF, Mortgagor(s) has (have) hereunto set his (their) hand(s) and seal(s) on this the 17th day of June, 19 91.

X David E. O'Hara
Mortgagor David E. O'Hara, Jr.

X Elva J. O'Hara
Mortgagor Elva J. O'Hara

STATE OF ALABAMA
COUNTY OF MOBILE

I, Debra B. McArthur, a Notary Public in and for said State of Alabama, County of Mobile, hereby certify that David E. O'Hara, Jr. and Elva J. O'Hara whose names are signed to the foregoing mortgage, and who are known to me, acknowledged before me on this date that, being informed of the contents of the mortgage, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 17th day of June, 19 91.

Debra B. McArthur
Notary Public MY COMMISSION EXPIRES 1/03/95

STATE OF ALABAMA
COUNTY OF _____

I, _____, a Notary Public in and for said State _____, hereby certify that _____ whose name _____ signed to the foregoing mortgage, and who _____ known to me, acknowledged before me on this date that, being informed of the contents of the mortgage, _____ 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 _____

I, _____, a Notary Public in and for said State _____, hereby certify that _____ and _____ whose names as _____ and _____ respectively, of _____ a corporation, are signed to the foregoing mortgage, and who are known to me, acknowledged before me on this day that, being informed of the contents of the mortgage, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation 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 _____

I, _____, a Notary Public, in and for said State and County, do hereby certify that _____ and _____ whose names as General Partners of _____ an Alabama Limited Partnership, are signed to the foregoing Mortgage, and who are known to me, acknowledged before me on this day, that being informed of the contents of said mortgage, they in their respective capacities as such general partners, executed the same voluntarily on the day the same bears date.

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

Notary Public

Pursuant to the requirements of Alabama law notice is hereby given that this instrument was prepared by:

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CERTIFICATE

STATE OF ALABAMA

MOBILE COUNTY

X RESIDENTIAL. Mortgagors and Mortgagee herein certify that residential property is conveyed by this mortgage and that the maximum principal indebtedness to be secured by this mortgage at any one time is \$85,000.00 upon which the mortgage tax of \$127.50 is paid herewith, as allowed by Alabama Code 40-22-2(1)(b) (1975).

-OR-

NON-RESIDENTIAL. In compliance with Alabama Code 40-22-2(2)(b) (1975), the Mortgagee of this mortgage hereby certifies that the amount of indebtedness presently incurred is _____ upon which the mortgage tax of _____ is paid herewith and Mortgagee agrees that no additional or subsequent advances will be made under this mortgage unless the mortgage tax on such advances is paid into the appropriate office of the Judge of Probate of _____ County, Alabama, no later than each September hereafter or an instrument evidencing such advances is filed for record in the above said office and the recording fee and tax applicable thereto paid.

FIRST ALABAMA BANK
BY:

David E. O'Hara, Jr.
David E. O'Hara, Jr.

Scotty J. Selph
Scotty J. Selph
TITLE - Commercial Loan Officer

Elva J. O'Hara
Mortgagors
Elva J. O'Hara

I CERTIFY THIS INSTRUMENT WAS FILED

Mortgagee

91 JUL -9 AM 10: 00

JUDGE OF PROBATE

1. Bond Fee	_____
2. Mfg. Tax	_____
3. Recording Fee	127.50
4. Recording Tax	_____
5. No. 1st Fee	_____
6. Personal Property	1.00
Total	127.50

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