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OF COUNSEL

May 24, 1979

Honorable H.G. Homme, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

ATTENTION: Mrs. Lee

9-144A070 10397  
RECORDATION NO. .... Filed 1425  
Date MAY 24 1979 MAY 24 1979 -4 10 PM  
Fee \$ 50.00 INTERSTATE COMMERCE COMMISSION  
ICC Washington, D. C.

Re: Recordation of Chattel Mortgage and Security Agreement Between the Texas Mexican Railway Company and the Laredo National Bank

Dear Sir/Madam:

Enclosed is an original and two copies of a "Chattel Mortgage and Security Agreement" entered into between the Texas Mexican Railway Company, a corporation organized and existing under the laws of the State of Texas, whose mailing address is Post Office Box 419, Laredo, Texas 78040, and the Laredo National Bank, a banking corporation whose mailing address is Post Office Drawer 59, Laredo, Texas 78040. The "Chattel Mortgage and Security Agreement" provides that the Laredo National Bank, in consideration for its loan of \$1,300,000 for the purchase of certain railway equipment, is granted a security interest in the collateral, that being the railway equipment. The railway equipment that is the subject of this "Chattel Mortgage and Security Agreement" are fifty, 100 ton flat bottom gondolas built by Portec, Inc. (Paragon Division), serial numbers TM 10,000 through 10,049 inclusive.

Enclosed also is a check in the amount of \$50.00. Please record the said "Chattel Mortgage and Security Agreement" forthwith. If there are any questions, please do not hesitate to contact the undersigned.

Very truly yours,  
I.C.C.  
FEE OPERATION BR  
RECEIVED  
MAY 24 4 03 PM '79  
David P. Bagliebter

Enclosure

DPB:fkw

*David P. Bagliebter*

**Interstate Commerce Commission**  
Washington, D.C. 20423

5/24/79

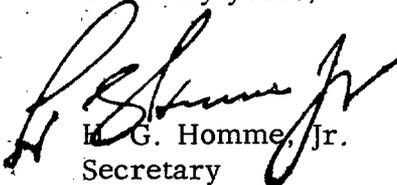
**OFFICE OF THE SECRETARY**

David P. Bagliebter  
Pope Ballard & Loos  
700 Brawner Building  
888 17th St, N.W.  
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/24/79 at 4:10pm, and assigned recordation number(s). 10397

Sincerely yours,

  
H. G. Homme, Jr.  
Secretary

Enclosure(s)

SE-30  
(3/79)

MAY 24 1979 -4 10 PM

INTERSTATE COMMERCE COMMISSION

## CHATTEL MORTGAGE AND SECURITY AGREEMENT

THIS CHATTEL MORTGAGE AND SECURITY AGREEMENT (this "Agreement"), made this 9<sup>th</sup> day of May, 1979, by and between THE TEXAS MEXICAN RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Texas, herein called the "Debtor", whose mailing address is P. O. Box 419, Laredo, Texas 78040, and THE LAREDO NATIONAL BANK, a banking corporation whose mailing address is P. O. Drawer 59, Laredo, Texas 78040, herein called the "Secured Party".

## W I T N E S S E T H:

WHEREAS, Debtor has borrowed from Secured Party the sum of One Million Three Hundred Thousand (\$1,300,000.00) Dollars, herein called the "Loan", and has executed and delivered to Secured Party a Note (herein called the "Note"), for the principal sum of One Million Three Hundred Thousand (\$1,300,000.00) Dollars, which will be funded under the terms of a certain Loan Agreement (herein called the "Loan Agreement") of even date herewith, the last installment of which is payable on the first day of the one hundred twentieth month following disbursement of the proceeds of such Note, with interest therein expressed, and

WHEREAS, Secured Party has required, as security for said Loan and Note, a lien upon certain collateral, as herein-after defined, now owned or hereafter acquired by the Debtor, and said Debtor desires to grant to Secured Party a lien upon said property as security for said Loan and Note,

NOW, THEREFORE, in consideration of the consummation of said Loan and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Debtor, for itself, its successors and assigns, has bargained and sold, and by these presents does grant, bargain, sell and convey unto Secured Party a security interest in the collateral described on Schedule "A" attached hereto and the proceeds thereof in the event of involuntary conversion or sale, together with any like property hereafter acquired by Debtor in substitution of or to replace any such collateral, all the foregoing being herein called the "Collateral".

This Agreement is made for the purpose of additionally securing:

1. The payment of the indebtedness evidenced by the Note.
2. The payment of all other sums and interest thereon becoming due and payable to Secured Party under the provisions hereof or under the provisions of the Note or Loan Agreement.

3. The performance and discharge of each and every obligation, covenant and agreement of the Debtor herein, in said Note or Loan Agreement and in any other securing agreement executed by the Debtor evidencing or securing the Loan, or incorporated by reference in any of them.
4. The repayment of all sums or amounts that are advanced or extended by Secured Party, its successors and assigns, for the maintenance or preservation of the Collateral, or any part thereof.
5. The payment of all amounts due under all extensions or renewals, and successive extensions or renewals, of the Note or the indebtedness represented thereby, or of any other or further indebtedness at any time owing by Debtor to Secured Party and relating to the Collateral, however the same may be advanced, and in whatever form it may be, whether represented by notes, drafts, open accounts or otherwise, and all interest thereon, the payment for which this Agreement shall stand as continuing security until full and complete payment shall have been made.
6. All costs of collection and litigation, including attorney's fees or other costs expended or incurred in connection with locating or taking possession of the Collateral.

Debtor declares and warrants to Secured Party that Debtor is (or upon delivery and receipt of the Collateral will be) the absolute owner and in possession of all the Collateral, and that said property is (or upon delivery and receipt will be) free and clear of all prior liens, encumbrances, security interests and adverse claims, and Debtor shall and will warrant and defend the title of said property against the claims of all persons whomsoever. Without the written consent of Secured Party, Debtor will not permit any lien, encumbrance, security interest or adverse claim to attach to the Collateral. Debtor covenants that no part of the Collateral will be sold, transferred, rented or leased without the written consent of Secured Party, and that, subject to use by other railroads under applicable laws, rules and regulations, the Collateral shall remain in Debtor's possession or control at all times. Debtor further warrants that no financing statement or other document evidencing or noting a lien or encumbrance against, or covering the Collateral is on file in any public office and, at the request of Secured Party, Debtor will join Secured Party in executing one or more financing statements or similar documents, in form satisfactory to Secured Party, and Debtor will pay the cost of filing in all public offices wherever filing is deemed necessary by Secured Party.

Debtor promises and agrees: To pay the principal sum of the Note, together with the interest thereon, at the time and in the manner therein provided, and to pay when due all sums secured hereby and to perform each and every covenant, condition and provision contained in this Agreement or incorporated hereby by reference; to properly care for and keep the Collateral in good condition, order and repair, ordinary wear and tear excepted; to pay all taxes, liens or assessments of whatever kind or description that may be levied against the Collateral, or any part thereof, before the same shall by law become delinquent; to comply with and use said property in strict conformity with all laws, ordinances, regulations and statutes applicable thereto. Debtor shall not be obligated to keep the Collateral (or any part thereof) insured against loss or damage, whether by casualty or otherwise, or to carry any public liability or other similar or dissimilar insurance in connection with the use or ownership of the Collateral.

If Debtor fails to make any payment or perform any act which it is obligated to perform under the provisions of this Agreement, Secured Party, without demand or notice to Debtor or any successor in interest of Debtor, may make such payment or perform such acts and incur any liability or expend whatever amounts it may, in its absolute discretion, deem necessary therefor, and all sums incurred or expended by Secured Party, or its successor, under the terms of this Agreement, shall immediately become due and payable by Debtor to Secured Party, or its successor in interest, when so incurred or expended and shall bear interest at the rate provided for in the Note and shall be secured hereby.

Debtor shall be in default under this Agreement upon the happening of any of the following events or conditions (herein called an "Event of Default"):

1. If Debtor defaults in the payment or performance of any of the obligations, or of any covenant or liability contained in or referred to in the Note or any of the other agreements secured hereunder, and such default shall continue for 10 days after written notice thereof from Secured Party to Debtor;
2. In the event either (a) a petition for reorganization under the Bankruptcy Act, as now constituted or as hereafter amended, or under any successor Bankruptcy Act, shall be filed by or against the Debtor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Debtor under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed

(whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or (b) any other proceedings shall be commenced by or against the Debtor for any relief which includes, or might result in, any modification of the obligations of the Debtor hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Debtor hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Debtor under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Debtor or for the property of the Debtor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier, or if any of the foregoing shall happen to any guarantor of the Note secured hereby, then, or at any other time thereafter, the whole of the aforesaid indebtedness and all other sums secured by this Agreement and any other securing agreement given in connection with the Loan shall become due and payable at once at the option of the Secured Party and Secured Party shall be entitled to declare this Agreement to be in default. The acceptance of one or more payments on the indebtedness or any sums secured by this Agreement made by anyone other than the Debtor prior to confirmation of foreclosure sale shall not constitute Secured Party's waiver of its right to accelerate the maturity of the aforesaid indebtedness and all other sums secured hereby;

3. If any warranty, covenant or representation made herein by Debtor proves to have been false in any material respect when made;
4. Debtor's dissolution or termination of existence;

5. Loss, theft, substantial damage, destruction or other event or cause of or to the Collateral so as to materially and substantially reduce the value of the Collateral; provided, that such event shall not be an Event of Default hereunder if Debtor, within ninety (90) days of any such event, makes prepayments on the Note in an amount equal to the fair market value of any such collateral;
6. If Debtor defaults under the terms hereof or under the terms of the Note or the Loan Agreement, and such default shall continue for 10 days after written notice thereof from Secured Party to Debtor.

Upon the occurrence of an Event of Default, and at any time thereafter, Debtor hereby expressly waiving notice, demand and presentment, Secured Party, its successors or assigns, may exercise any one or more of the following rights, or any combination of any of the following rights:

1. Without notice or demand and without the necessity of having a receiver appointed and without regard to the adequacy or inadequacy of any security for the indebtedness or the solvency or insolvency of the Debtor, or any guarantor, at any time take possession of the collateral and repair, care for, lease or manage the said property and perform any act necessary to collect the rents, issues, income and profits thereof and apply the proceeds in the manner specified herein upon sale of the Collateral;
2. Declare all sums secured hereby immediately due and payable and exercise any or all of the rights and remedies available to Secured Party under law, and it may, at its option, enter upon the premises where said property may be and take such measures as to Secured Party may be deemed necessary or proper for the care or protection thereof and remove and/or dispose of said property at either public or private sale, notice of such sale, reasonable under the circumstances, having been given to the Debtor (the Debtor hereby expressly waiving demand). Secured Party, its successors or assigns, may become the purchaser and, from the proceeds of said sale, retain all costs and charges (including attorneys' fees) incurred in the taking or sale of said property and in the care and protection thereof, and may apply the balance toward the payment of all sums due Secured Party and secured hereby and shall dispose of the surplus remaining as provided by law and disposition of the collateral shall be satisfied if such notice is mailed by registered mail to the address of Debtor shown in this Agreement at least five days prior to the time of such public or private sale;

3. Be entitled as a matter of right, in addition to the foregoing, to the appointment of a receiver by a court of competent jurisdiction to assist it in performing and doing any acts hereinabove set forth. All expenses of such receiver (including attorneys' fees) shall likewise become immediately due and payable by Debtor to Secured Party, or its successors in interest, shall bear interest at the rate provided by the Note and shall be secured hereby.

In case Secured Party shall demand possession of the Collateral pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Collateral to Secured Party, Debtor shall, at its own expense and risk:

1. Forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units of the Collateral have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as Secured Party reasonably may designate;
2. Permit Secured Party to store such units on such tracks without charge for rent or storage until all such units have been sold, leased or otherwise disposed of by Secured Party; and
3. Cause the same to be transported to any reasonable place on the line of Debtor, as directed by Secured Party.

During any storage period, Debtor shall, at its own cost and expense, maintain and keep each such unit in good order and repair and permit the inspection of the Collateral by Secured Party, representatives of Secured Party and prospective purchasers and users.

The taking of possession of the Collateral and the receipt of any income provided for herein shall not cure or waive any Event of Default, or notice of default, or invalidate any act done pursuant to such notice.

Failure on the part of Secured Party to demand the entire payment after the happening of any Event of Default shall not be deemed a waiver by Secured Party of its rights to make immediate demand for the entire amount remaining unpaid, or to exercise any right or remedy, or combination thereof, as provided in this Agreement; and any payments made subsequent to an Event of Default, or the acceptance of partial payment, shall not be deemed a waiver of such rights. The lien of this Agreement shall continue until payment in full of the amounts secured by this Agreement have been completed.

This Agreement shall be construed to be a lien against (1) any like property hereafter acquired by Debtor in substitution of or to replace any of the Collateral subject to this Agreement, and whether the additions or substitutions be made with or without the knowledge or consent of Secured Party, and (2) the proceeds of such after acquired property in the event of involuntary conversion or sale.

All remedies allowed Secured Party under the laws of the State of Texas and under the terms of this Agreement are, and shall be, concurrent and cumulative and may be exercised and enforced as hereinabove and as by law provided without reference to the time or manner of foreclosure or enforcement of any other security for said indebtedness or obligations, whether held by deed of trust, mortgage, pledge, security agreement or otherwise.

Any notice hereunder to any party hereto shall be deemed to be properly served if delivered or mailed to it by registered or certified mail, postage prepaid, at its address set forth above, or at such other address as may have been furnished in writing by such party to the other party to this Agreement.

In this Agreement, whenever the context so requires, the masculine gender includes the feminine and/or neuter and the singular number includes the plural, and the term "Secured Party" shall include any future holder, including pledgee, of the Note secured hereby.

Secured Party may, at any time or from time to time, without liability therefor and without notice, upon request of Debtor and without affecting the personal liability of any person for the payment of the indebtedness secured hereby, release any part of the Collateral or join in any extension agreement or subordination agreement in connection herewith. Secured Party shall have the right to inspect the Collateral at any time.

IN WITNESS WHEREOF, Secured Party and Debtor have caused these presents to be executed the day and year first above written.

[Corporate Seal]

THE LAREDO NATIONAL BANK

ATTEST:

*Adelina M. Guzman*  
Adelina M. Guzman, Asst. Vice Pres.

[Corporate Seal]

By *Max A. Mandel*  
Max A. Mandel, Chmn. Executive Com  
THE TEXAS MEXICAN RAILWAY COMPANY

ATTEST:

*A. C. de la Jara*  
SECRETARY

By *A. R. Ramos*  
A. R. Ramos, President

THE STATE OF TEXAS    §

COUNTY OF WEBB        §

On the 9th day of May, 1979, before me personally appeared Max A. Mandel, to me personally known, who, being by me duly sworn, says that he is the Chairman of the Executive Comm of THE LAREDO NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Eva C. Flores*

Notary Public in and for  
Webb County, Texas

My Commission Expires: 9-30-80

THE STATE OF TEXAS    §

COUNTY OF WEBB        §

On the 9th day of May, 1979, before me personally appeared A. R. Ramos, to me personally known, who, being by me duly sworn, says that he is the President of THE TEXAS MEXICAN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Sandra Ann Webber*  
Notary Public in and for  
Webb County, Texas

My Commission Expires: 7-21-79

SCHEDULE "A"

Fifty (50) one hundred (100) ton flat bottom gondolas built by Portec, Inc. (Paragon Division), Serial Numbers TM 10,000 through 10,049, inclusive, to be recorded with the Association of American Railroads in the Universal Machine Language Equipment Register.