

3-151A093

# Wachovia

Wc MAY 31 1983

Wachovia Bank & Trust Company, N.A.  
P.O. Box 668  
Thomasville, NC 27360

Date

50.00

OH

May 20, 1983

14031  
RECORDATION NO. Filed 1425

MAY 21 1983 - 4 10 PM

INTERSTATE COMMERCE COMMISSION

Ms. Agatha L. Mergenovich  
Secretary of ICC  
INTERSTATE COMMERCE COMMISSION  
12th and Constitution Ave., NW  
Washington, DC 20423

RECEIVED  
MAY 31 4 01 PM '83  
I.C.C.  
FEE OPERATION BR.

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. S11303 (1977), I am enclosing herewith for filing and recordation with the Interstate Commerce Commission a SECURITY AGREEMENT covering the following railroad and railway bed service equipment all of which is manufactured by Plasser American Corporation:

<u>NUMBER</u>	<u>ITEM</u>	<u>SERIAL NO.</u>
1	Tamper	1020
1	Tamper	2176 with Tie Exchanger
1	Tamper	2203 with Tie Exchanger
1	Tamper	2198
1	Tamper	2089
1	Tamper	2180
1	Tamper	2184
1	Tamper	2025 with Tie Exchanger
1	Tamper Asst Roadmaster	2228
1	Tamper Asst Roadmaster	2232
1	Tamper Asst Roadmaster	2233
1	Cribber	111
1	Cribber	112
1	Cribber	120
1	Cribber	125

Ms. Agatha L. Mergenovich  
Page Two

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The parties to the above-mentioned SECURITY AGREEMENT are as follows:

a. Secured Party:

Wachovia Bank and Trust Company, N.A.  
P. O. Box 21048  
201 N. Elm Street  
Greensboro, NC 27401 (919) 373-6244

b. Debtor:

Graystone Associates, Inc.  
Route 11, Box 249-A  
Lexington, NC 27292

Please return the original recorded document to Wachovia Bank and Trust Company, N.A. at the above-mentioned address.

If you have any questions or if I can be of any further assistance, please do not hesitate to contact the undersigned.

Very truly yours,



Frank L. Rankin  
Vice President  
Wachovia Bank & Trust Company, N.A.

FLR/sm

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

6/1/83

**OFFICE OF THE SECRETARY**

Frank L. Rankin, VP  
Wachovia Bank & Trust Co. N.A.  
P.O.Box 668  
Thomasville, N.C. 27360

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 5/31/83 at 4:10pm, and assigned re-  
recording number(s). 14031

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated May 20, 1983, by and between GRAYSTONE ASSOCIATES, INC., a North Carolina corporation (the "Company") and WACHOVIA BANK AND TRUST COMPANY, N.A. (the "Secured Party");

RECORDATION NO. 44031 filed 1425

W I T N E S S E T H :

MAY 31 1983 -4 10 PM

WHEREAS, pursuant to the provisions of INTERSTATE COMMERCE COMMISSION dated April 8, 1983, by and between the Company and the Secured Party (the "Loan Agreement"), the Secured Party has agreed to loan to the Company the principal sum of \*\*\*Two hundred fifty thousand & No/100 Dollars (\$ 250,000.00 ) (the "Loan") and the Company has executed a promissory note (the "Note") of even date herewith evidencing the Company's obligation to repay the Loan pursuant to the terms and conditions set forth in the Note.

WHEREAS, the Company has agreed to provide security for the performance of its obligations under the Loan Agreement and the Note.

NOW, THEREFORE, in consideration of the premises, loans heretofore or hereafter to be made by the Secured Party to the Company, and other good and valuable consideration, receipt of which is hereby acknowledged, intending to be legally bound hereby, the Company hereby agrees with the Secured Party as follows:

1. Grant of Security Interest. To secure payment of the Note and the prompt and complete performance of all its other obligations to the Secured Party hereunder or under the Loan Agreement or the Note, whether now existing or hereafter arising, whether primary or secondary, direct or indirect, absolute, contingent or conditioned, due or to become due (hereinafter called "Liabilities"), the Company hereby pledges, assigns and grants to the Secured Party a security interest in, and a lien on, the following railroad and railway bed service equipment, all of which is manufactured by Plasser American Corporation:

<u>Number</u>	<u>Item</u>	<u>Serial Number</u>
1	Tamper	1020
1	Tamper	2176 w/Tie Exchanger Attachment
1	Tamper	2203 w/Tie Exchanger Attachment
1	Tamper	2198
1	Tamper	2089
1	Tamper	2180
1	Tamper	2184
1	Tamper	2025 w/Tie Exchanger Attachment
1	Tamper Asst Roadmaster	2228
1	Tamper Asst Roadmaster	2232
1	Tamper Asst Roadmaster	2233
1	Cribber	111
1	Cribber	112
1	Cribber	120
1	Cribber	125

and all accessions thereto, replacements of and substitutions of the foregoing and the proceeds of the foregoing, including the proceeds of any insurance relating thereto (collectively the "Collateral").

2. No Other Lien. Until satisfaction in full of all Liabilities, the Company shall not permit or suffer to exist any lien, security interest or encumbrance upon any of the Collateral except as created under this Agreement. The Company further makes the following warranties and covenants:

(1) The Company is a corporation duly organized, validly existing and in good standing under the laws of North Carolina, with full power and authority to own its properties and conduct its business as now conducted and to execute and deliver this Agreement.

(2) The execution and delivery of this Agreement, the Loan Agreement and all other agreements, documents and instruments in connection with the loan have been duly and properly authorized by all necessary and appropriate corporate action.

(3) The execution and delivery of this Agreement and the Loan Agreement and all other agreements, instruments and documents in connection therewith do not and will not require registration with, or the consent or approval of, any governmental authority, whether local, state or federal.

(4) The execution, delivery and performance of this Agreement, and the grant of the security interest contained herein do not and will not violate or constitute a breach of or default under the Company's charter or bylaws or any laws, rules or regulations to which the Company is subject or any agreement, instrument, loan agreement, mortgage, or other instrument or document to which the Company is a party or by which it or any of its properties are bound.

(5) The Company is the owner of the Collateral free and clear of all charges, liens, claims, encumbrances, mortgages, security interests (except as created herein), or any other evidences of indebtedness and is using the Collateral for business purposes. The Company agrees to defend the Collateral against all claims and demands of all persons.

(6) The Company will insure the Collateral with companies acceptable to Secured Party against such casualties and in such amounts as Secured Party shall require; the Company will maintain such insurance in effect until the Note is paid in full and the Company has performed all of its other obligations under the Loan Agreement; and all insurance policies shall designate the

Secured Party as a loss payee. All such policies or certificates evidencing the same shall be delivered to the Secured Party. If Company fails to pay the premiums on any such insurance, Secured Party may do so for the Company's account, adding the amount thereof to the other amounts secured hereby, however, Secured Party is under no obligation or has no duty to pay such premiums. All policies of insurance shall provide that such policies cannot be terminated or materially amended without at least thirty (30) days prior written notice to Secured Party. If the Company fails to pay any taxes, assessments, liens, or other evidences of indebtedness, Secured Party may do so for the Company's account, adding the amount thereof to other amounts secured hereby, however, Secured Party is under no obligation or has no duty to pay such obligations.

(7) The Company will use the Collateral at all times in accordance with all applicable laws, rules, regulations and ordinances of all jurisdictions in which the Collateral is or may be located, operated or used; the Company will promptly maintain the Collateral in good repair and condition; the Company will promptly pay all taxes, assessments and charges levied against Collateral or the Company, or any other person in connection with the use or operation thereof; the Company will promptly replace all or any part of the Collateral which may be worn out, lost, destroyed, confiscated or otherwise rendered unusable or unsatisfactory or unavailable for use.

(8) The Loan Agreement, the Note, this Security Agreement and all other related notes, instruments and documents have each been duly executed and delivered and constitute the valid, legal and binding obligations of the Company, enforceable against it in accordance with its terms.

(9) There are no actions, suits or proceedings pending, or to the knowledge of the Company threatened, against the Company which may materially or adversely affect the financial condition of the Company or which involve or affect the Collateral or the validity, priority or enforceability of the security interest herein conferred, at law or at equity.

(10) The Company is not in default with respect to any order, writ, judgment, decree or demand of any court or any local, state or federal governmental authority.

(11) The Company shall immediately notify Secured Party of any change in its name or address set forth in Section 7(a) hereof.

3. Events of Default. The Company shall be in default under this Agreement upon the occurrence of any one or more of the following events:

(a) Failure to pay when due, whether at maturity, by acceleration or otherwise, any principal, premium, if any, or interest on the Note;

(b) Failure to perform when due any of the other Liabilities;

(c) Any warranty or representation made by or on behalf of the Company herein shall be false or misleading in any material respect;

(d) The loss, theft, seizure, attachment, charge or destruction of any material amount of the Collateral which loss, theft, seizure, attachment, damage or destruction is not covered by insurance.

(e) Any default or event of default under the Loan Agreement.

4. Remedies. Upon default or event of default hereunder the Secured Party shall have, in addition to all other rights and remedies given it under this Agreement, those allowed by law, and, without limiting the generality of the foregoing, the Secured Party may immediately with or without judicial process, take immediate and exclusive possession of the Collateral and may without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Company, all of which are hereby expressly waived, and without advertisement, sell at public or private sale, or realize upon, wherever located, the whole or from time to time, any part of the Collateral, or any interest which the Company may have therein, and after deducting from the proceeds of sale or other disposition of the Collateral, all expenses of such sale (including all publication, storage, legal and other costs and expenses related thereto), shall apply the residue of such proceeds toward the satisfaction of the Liabilities. Any remainder of the proceeds after satisfaction in full of the Liabilities shall be paid to the Company. Notice of any sale or other disposition shall be given to the Company at least ten (10) days before the time any intended public sale or of the time any intended private sale or other disposition of the Collateral is to be made, which the Company hereby agrees shall be reasonable notice of such sale or other disposition. The Company agrees to assemble, or cause to be assembled at its own expense, the Collateral at such place or places as the Secured Party shall designate by written notice. At any such sale or other disposition, the Secured Party may, to the extent permissible under applicable law purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of

the Company, which right is hereby waived and released. The Secured Party shall have the right to inspect the Collateral at any time upon reasonable notice to the Company.

5. Filing; Further Assurances. The Company agrees to execute and deliver to the Secured Party Uniform Commercial Code financing statements and such other documents, instruments, supplemental security agreements and chattel mortgages as the Secured Party may deem necessary, proper or desirable to obtain the benefits of this Agreement, and the Company authorizes the Secured Party to effect any filing or recording of any such documents relating to the Collateral or amendments thereto without the signature of the Company, where lawful, and hereby appoints the Secured Party as its attorney-in-fact (without requiring the Secured Party to act as such) to execute any such documents in the name of the Company, and to perform all other acts which the Secured Party deems appropriate to perfect and continue the security interest in, and to protect and preserve, the Collateral. The power of attorney herein conferred upon Secured Party is coupled with an interest and is irrevocable. The Company further agrees to assign to the Secured Party its rights in or under any instruments relating to the Collateral filed in favor of the Company. The Company further agrees to comply with any statutes, regulations or any other laws applicable to the Collateral, including, without limitation, those laws promulgated under the Interstate Commerce Act, as amended or revised.

6. Expenses. The Company agrees that all costs and expenses (including reasonable attorneys' fees and expenses for legal services of every kind) of, or incidental to, the custody, care, management, sale or collection of, or realization upon, any of the Collateral or in any way relating to the enforcement or protection of the rights of the Secured Party, shall become part of the Liabilities and shall be entitled to the benefits of this Agreement, and the Secured Party may, at any time, apply to the payment of all such costs and expenses all monies of the Company or other proceeds arising from the possession or disposition of all or any portion of the Collateral.

7. Notices. All notices, requests, approvals, demands and other communications given or made in connection with the terms and provisions of this Agreement shall be in writing, shall be sent by first class, registered or certified mail, postage prepaid, or by telegraph, shall be deemed to have been given or made when postmarked, or, in the case of telegraphic notice, when delivered to the telegraph company, and shall be addressed as follows:

(a) If the Company:

Graystone Associates, Inc.  
Route 11, Box 249-A  
Lexington, North Carolina 27292

(b) If the Secured Party:

Wachovia Bank and Trust Company, N.A.  
P. O. Box 21048  
Greensboro, North Carolina 27401

or to such other address as either party to this Agreement shall furnish in writing to the other.

8. Termination. Upon the satisfaction in full of all the Liabilities and other obligations of the Company under the Loan Agreement and this Agreement, the Secured Party shall execute and deliver to the Company all such documents and instruments as shall be necessary to evidence termination of this Agreement.

9. Construction. The provisions of this Agreement shall be in addition to those of any guarantee, pledge or security agreement, note or other evidence of liability held by the Secured Party, all of which shall be construed as complementary to each other. Nothing herein contained shall permit the Secured Party from enforcing any of all other notes, guarantees, pledges or security agreements of the Company or any affiliate thereof in accordance with their respective terms.

10. Enforcement and Waiver by the Bank. The Secured Party shall have the right at all times to enforce the provisions of this Agreement and all other documents required hereunder in strict accordance with the terms hereof and thereof, notwithstanding any conduct or custom on the part of the Secured Party in refraining from so doing at any time or times. The failure of the Secured Party at any time or times to enforce its rights under such provisions, strictly in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Agreement or as having in any way or manner modified or waived the same. All rights and remedies of the Secured Party are cumulative and concurrent, and the exercise of one right or remedy shall not be deemed a waiver or release of any other right or remedy.

11. Applicable Law. The construction of this Agreement and the rights and remedies of the parties hereto shall be governed by the laws of the State of North Carolina.

12. Binding Effect; Amendments. This Agreement shall inure to the benefit of the Secured Party, its successors and assigns, and shall be binding on the successors and assigns of the Company. This Agreement may be amended only by a writing signed by each of the parties hereto.

13. Seal. This Agreement is intended to take effect as a document under seal.

IN WITNESS WHEREOF, the parties hereto duly executed this Agreement under seal as of the day and year first above written.

GRAYSTONE ASSOCIATES, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Handwritten signature]*  
\_\_\_\_\_

Attest:

*[Handwritten signature]* ASST. SEC.

[CORPORATE SEAL]

WACHOVIA BANK AND TRUST COMPANY, N.A.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Handwritten signature]*  
\_\_\_\_\_

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF DAVIDSON )

ACKNOWLEDGMENT

On this 20th day of May, 1983, before me personally appeared FRANK L. RANKIN, to me personally known, who being by me duly sworn, says that he is a Vice President of WACHOVIA BANK AND TRUST COMPANY, N.A., that the seal 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.

On this 20th day of May, 1983, appeared Franz Allmer, to me personally known, who being by me duly sworn, says that he is President of Graystone Associates, Inc., that the seal 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.

Hester Louise Carpenter  
Notary Public

My commission expires:

April 14, 1987



CERTIFICATE OF NOTARY

I have compared this copy of the SECURITY AGREEMENT and the ACKNOWLEDGMENT with the original documents and I verify that this copy is a true and correct copy in all respects.

Hester Louise Carpenter  
Notary Public

My commission expires:

April 14, 1987

