

12365

RECORDATION NO. \_\_\_\_\_ Filed 1425

OCT 29 1980 - 12 25 PM

INTERSTATE COMMERCE COMMISSION



CITIZENS Commercial & Savings BANK  328 S. Saginaw Street  Flint, Michigan 48502  Telephone (313) 766-7500

October 17, 1980

Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Sir:

Enclosed please find three (3) duplicate original Security Agreement-Financing Statement copies for filing, pursuant to the regulations of the Interstate Commerce Commission, Sub-Chapter B, part 1116 - Recordation of Documents together with the filing fee of \$50.00.

OCT 29 12 20 PM '80  
FILED  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE

Pursuant to the provisions of that part, the following information is submitted:

**0-303A011**

1116.4 (b)

Mortgage:

No. } OCT 29 1980

Date.....  
Fee \$ 50.00

ICC Washington, D. C.

Mortgagor: Michigan Artrain, Inc.  
316 Fisher Building  
Detroit, MI 48202

Mortgagee: Citizens Commercial & Savings Bank  
One Citizens Bank Building  
Flint, MI 48502 - Attn: James W. Bitzinger

116.4 (c)

Description:

1952 Stainless Steel 73 foot baggage car -  
Southern Pacific Car #106

1116.4 (d)

Included in the property covered by the aforesaid mortgage is a railroad car used or intended for use in connection with interstate commerce or interests therein owned by Michigan Artrain, Inc., at the date of said mortgage (Security Agreement-Financing Statement).

1116.4 (e) Not Applicable

Very truly yours,

Citizens Commercial & Savings Bank

*James W. Bitzinger*  
James Bitzinger  
Sr. Vice President

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

11/4/80

OFFICE OF THE SECRETARY

**James Bitzinger**  
**Sr. Vice President**  
**Citizens Commercial & Savings Bank**  
**328 S. Saginaw Street**  
**Flint, Michigan 48502**

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 **10/29/80** at **12:25pm**, and assigned re-  
recording number(s). **12365**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

# SECURITY AGREEMENT

Financing Statement  
(Tangible Personal Property)

12365  
RECORDATION NO. \_\_\_\_\_ Filed 1425

OCT 29 1980 - 12 25 PM

INTERSTATE COMMERCE COMMISSION

For value received, the undersigned, herein called "Debtor", hereby grants to CITIZENS COMMERCIAL & SAVINGS BANK, a Michigan banking corporation, whose principal office is located at 328 South Saginaw Street, Flint, Michigan, herein called "Bank", a security interest in the property hereinafter described:

1952 Stainless Steel 73 foot baggage car - Southern Pacific Car #106

(For additional property, see attached Schedule A)

and also in (i) all additions, attachments, accessions, parts, replacements, substitutions and renewals thereof or therefor, wherever situated, now owned or hereafter acquired, (ii) all other similar property hereafter acquired by Debtor, (iii) all property of Debtor at any time in possession of Bank, (iv) all balances of deposit accounts of Debtor from time to time with Bank, and (v) the proceeds of all of the foregoing (herein collectively called the "Collateral"), to secure payment of any and all indebtedness and liabilities whatsoever of Debtor to Bank, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and howsoever evidenced (herein collectively called the "Indebtedness").

## 1. WARRANTIES, COVENANTS AND AGREEMENTS. Debtor warrants, covenants and agrees as follows:

- 1.1 The Collateral has been acquired (or will be acquired) for use primarily in business. Bank at its option may disburse loan proceeds directly to the seller of any Collateral to be acquired by Debtor with proceeds of loans from Bank.
- 1.2 All items constituting a part of the Collateral which are fixtures under applicable law or which are in fact attached to real estate are described in Schedule B annexed hereto. There is likewise set forth in Schedule B a description of the real estate upon which all such items are located and the name(s) and address(es) of the owner(s) thereof. Debtor upon demand of Bank shall furnish Bank with consents or disclaimers filed by all persons having an interest in the real estate (including owners, mortgage holders and lessees) consenting to Bank's security interest and acknowledging its priority or disclaiming any interest in the Collateral.
- 1.3 At the time any Collateral becomes subject to a security interest in favor of Bank, Debtor shall be deemed to have warranted that (i) Debtor is the lawful owner of such Collateral and has the right and authority to subject the same to a security interest in Bank and (ii) none of the Collateral is subject to any security interest other than that in favor of Bank and there are no financing statements on file other than in favor of Bank.
- 1.4 Debtor will keep the Collateral free at all times from any and all liens, security interests or encumbrances other than those in favor of Bank. Debtor will not, without the prior written consent of Bank, sell or lease, or permit or suffer to be sold, or leased, all or any part of the Collateral. Bank or its agents or attorneys may at any and all reasonable times inspect the Collateral and may enter upon any and all premises where the same is kept or might be located. Debtor shall allow Bank to examine, inspect and make abstracts from, or copy any of Debtor's books and records (relating to the Collateral or otherwise).
- 1.5 Debtor will do all acts and things, and will execute all writings requested by Bank to establish, maintain and continue perfected and first the security interest of Bank in the Collateral, and will promptly on demand pay all costs and expenses of filing and recording, including the costs of any searches deemed necessary by Bank to establish and determine the validity and the priority of Bank's security interest. With respect to any vehicle constituting a part of the Collateral, Debtor will take all steps necessary to effect upon the certificate of title to any such vehicle an indication of the security interest of Bank therein.
- 1.6 Debtor will pay promptly and within the time that they can be paid without interest or penalty, all taxes, assessments and similar imposts and charges which are now, or hereafter during the effective period of this Agreement may become, a lien, charge or encumbrance upon any of the Collateral except to the extent contested in good faith. If Debtor fails to pay any such taxes, assessments or other charges as they become due, Bank shall have the option to do so and Debtor agrees to repay all amounts so expended by Bank with interest at the rate of \_\_\_\_\_ % per annum. (If not filled in the rate of 7% per annum shall apply.)
- 1.7 Debtor will keep the Collateral in good condition and shall safeguard and protect the same from loss, damage or deterioration from any cause whatsoever. Debtor has and will maintain at all times during the effective period of this Agreement with respect to the Collateral, insurance against fire and other risks customarily insured against by persons engaged in similar business to that of Debtor, in such amounts, containing such terms, in such form, for such purposes and written by such companies as may be satisfactory to Bank, payable to Bank as its interests may appear, and Debtor will deliver to Bank at its request evidence satisfactory to Bank that such insurance has been so procured and made payable to Bank. If Debtor fails to maintain satisfactory insurance, Bank shall have the option to do so and Debtor agrees to repay all amounts so expended by Bank, with interest at the rate of \_\_\_\_\_ % per annum. (If not filled in the rate of 7% per annum shall apply.)
- 1.8 Debtor will reimburse Bank in accordance with the provisions of the Uniform Commercial Code for all expenses, including reasonable attorney fees and legal expenses, incurred by Bank in seeking to collect the Indebtedness or any part thereof, in defending the priority of Bank's Security Interest or in pursuing any of its rights or remedies hereunder.

## 2. DEFAULTS, ENFORCEMENT AND APPLICATION OF PROCEEDS

- 2.1 Upon the occurrence of any of the following events (herein sometimes called an "Event of Default"), Debtor shall be in default under this Agreement:
  - (i) Any failure or neglect to comply with any of the terms, provisions, warranties or covenants of this Agreement; or
  - (ii) Any failure to pay the Indebtedness when due, or such portion thereof as may be due, by acceleration or otherwise; or
  - (iii) If the Collateral or any part thereof ceases to be personal property unless herein shown to the contrary; or
  - (iv) Any warranty, representation, financial statement, or other information made, given or furnished to Bank by or on behalf of Debtor shall be, or shall prove to have been false when so made, given, or furnished; or
  - (v) Any loss, theft, substantial damage or destruction to or of any of the Collateral, or the issuance or filing of any attachment, levy, garnishment or other judicial process of, upon or in respect of Debtor or any of the Collateral; or
  - (vi) Sale or other disposition by Debtor of any substantial portion of its assets or property, except in the ordinary course of business; or death, dissolution, termination of existence, insolvency, business failure, or assignment for the benefit of creditors of or by Debtor or any guarantor; or commencement of any proceedings under any State or Federal bankruptcy or insolvency laws or laws for the relief of debtors by or against Debtor or any guarantor; or the appointment of a receiver, trustee, court appointee, sequestrator, or otherwise, for all or any part of the property of Debtor or any guarantor; or
  - (vii) Bank deems the margin of Collateral insufficient or itself insecure, in good faith believing that the prospect of payment of the Indebtedness or performance of this Agreement is impaired or shall fear deterioration, removal or waste of the Collateral.

- 2.2 Upon the occurrence of any Event of Default, Bank may at its discretion and without prior notice to Debtor declare any or all of the Indebtedness to be immediately due and payable, and shall have and may exercise any one or more of the rights and remedies for which provision is made in Paragraph 3.3 hereof, including without limitation the right to take possession and sell, lease or otherwise dispose of any or all of the Collateral. Debtor agrees, upon request of Bank, to assemble the Collateral and make it available to Bank at any place designated by Bank which is reasonably convenient to Bank and Debtor.
- 2.3 The proceeds of any sale or other disposition of Collateral authorized by this Agreement shall be applied by Bank first upon all expenses authorized by the Uniform Commercial Code and all reasonable attorney's fees and legal expenses incurred by Bank; the balance of the proceeds of such sale or other disposition shall be applied in the payment of the Indebtedness, first to interest, then to principal; and the surplus, if any, shall be paid over to Debtor or to such other person or persons as may be entitled thereto under applicable law. Debtor shall remain liable for any deficiency which it shall pay to Bank immediately upon demand.
- 2.4 Nothing herein contained is intended, nor should it be construed, to preclude Bank from pursuing any other remedy provided by law for the collection of the Indebtedness or any portion thereof, or for the recovery of any other sum to which Bank may be or become entitled for the breach of this Agreement by Debtor.
- 2.5 No waiver of default shall be effective unless in writing signed by an officer of Bank, and no waiver of any default or forbearance on the part of Bank in enforcing any of its rights under this Agreement shall operate as a waiver of any other default or of the same default on a future occasion or of any such right.

**3. MISCELLANEOUS**

- 3.1 This Agreement shall in all respects be governed by and construed in accordance with the laws (including the conflict of laws rules) of the State of Michigan.
- 3.2 This Agreement shall be terminated only by the filing of a Termination Statement in accordance with the applicable provisions of the Uniform Commercial Code. Until terminated, the security interest hereby created shall continue in full force and effect and shall secure and be applicable to all advances now or hereafter made by Bank to Debtor whether or not Debtor is indebted to Bank immediately prior to the time of any such advance.
- 3.3 Until termination of this Agreement, Bank shall have and may exercise any and all of the rights and remedies given by this Agreement or given to a secured party under the Uniform Commercial Code. This Agreement and all such rights and remedies shall inure to the benefit of Bank's successors and assigns and to any other holder who derives from Bank title to or an interest in the Indebtedness or any portion thereof, and shall bind Debtor and the heirs, legal representatives, successors and assigns of Debtor.
- 3.4 The phrase "Uniform Commercial Code" means Act No. 174 of the Michigan Public Acts of 1962, as amended. Except as otherwise herein provided, the terms used in this Agreement shall have the meanings assigned to them in Article 9 (or, absent definition in Article 9, in any other Article) of the Uniform Commercial Code.
- 3.5 If there is more than one Debtor, all undertakings, warranties and covenants made by Debtor and all rights, powers and authorities given to or conferred upon Bank shall be made or given jointly and severally.
- 3.6 Any indebtedness owing from Bank to Debtor can be set off and applied by Bank on any Indebtedness (as herein defined) at any time from time to time either before or after maturity or demand upon or notice to anyone.

**4. STATEMENT OF RESIDENCE AND LOCATION OF COLLATERAL**

- 4.1 Debtor's principal place of business (residence) in this state is located at Michigan Artrain, Inc.  

<u>316 Fisher Building</u>	<u>Detroit, MI 48202</u>	<u>Oakland</u>
No. and Street	City	County
- 4.2 Until Bank is advised in writing by Debtor to the contrary, all notices, requests and demands, required hereunder or by law, shall be given to or made upon Debtor at said principal place of business.
- 4.3 The Collateral will be kept at the address of Debtor shown in Paragraph 4.1 above and (or) at such other address as is indicated below:  
various locations throughout the State of Michigan or in other states  

No. and Street	City	County
----------------	------	--------
- 4.4 Debtor will give Bank prompt written notice of any change in its principal place of business (residence).

**5. SPECIAL PROVISIONS APPLICABLE TO THIS AGREEMENT**

- 5.1 The parties hereto have entered into a separate Term Loan Agreement dated October 13, 1980  

(If no date inserted, this provision inapplicable)
- 5.2 If this section is left blank, there are no special provisions.

This Security Agreement is intended to cover collateral which is subject to the regulations of the Interstate Commerce Commission Title 49, Code of Federal Regulations Subtitle B, Ch. X, part 1116-Recordation of Documents, inasmuch as the collateral is railroad cars or other rolling stock intended for use in connection with interstate commerce.

Date and delivered at Flint,  
Michigan October 13, 1980

MICHIGAN ARTRAIN, INC.

By W. Calvin Patterson III  
Debtor  
 Its PRESIDENT

Accepted and Approved By:  
James W. Bitzinger Sr. Vice Pres.  
 JAMES W. BITZINGER  
 Sr. Vice President

STATE OF MICHIGAN)  
 COUNTY OF GENESEE) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 1980, before me personally appeared \_\_\_\_\_

