

01-31-2001



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TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID#
- Correction of PTO Error  
Reel #  Frame #
- Corrective Document  
Reel #  Frame #

Conveyance Type

- Assignment
- License
- Security Agreement
- Nunc Pro Tunc Assignment  
Effective Date Month Day Year  
 September 29, 2000
- Merger
- Change of Name
- Other

Conveying Party(ies)

Mark if additional names of conveying parties attached

Name  Morgan Trailer Financial Management, L.P.

Execution Date  
Month Day Year  
 September 29, 2000

Formerly

912554

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization  Texas

Receiving Party

Mark if additional names of conveying parties attached

Name  CONGRESS FINANCIAL CORPORATION

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)  1133 Avenue of the Americas

Address (line 3)  New York  New York, U.S.A.  10036  
City State/Country Zip Code

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization  Delaware

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment)

FOR OFFICE USE ONLY

317700 AQH-FED1 00000157 912554

FC:481 40.00 OP  
FC:482 475.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB nation Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK

REEL: 002226 FRAME: 0609

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

212-661-9100

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**  
SEE EXHIBIT A ANNEXED HERETO

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Registration Number(s)**  
SEE EXHIBIT A ANNEXED HERETO

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Number of Properties**

Enter the total number of properties involved.

#

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$

575.00

Method of Payment: Enclosed  Deposit Account

**Deposit Account**

(Enter for payment by deposit account or if additional fees can be charged to the account)

Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Preston R. Cappello

1/30/01

Name of Person Signing

Signature

Date

**EXHIBIT A  
TO TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY DOCUMENT**

**LIST OF TRADEMARKS**

<u>Trademark/Service Mark Trade Name Registered Trademarks</u>	<u>Registration No.</u>	<u>Country</u>	<u>Registration or Filed* Date</u>	<u>Renewal Date</u>
Morgan	912,554	U.S.A.	06/08/71	06/08/01
Curb Sider	1,442,012	U.S.A.	06/09/87	06/09/07
Curtain Slider	1,457,347	U.S.A.	09/15/87	09/15/07
Curtain Slider/Curb Slider	1,466,293	U.S.A.	11/24/87	11/24/07
'M' with Man and Cart	1,478,609	U.S.A.	03/01/88	03/01/08
'M' with Snowflake	1,478,612	U.S.A.	03/01/88	03/01/08
'M' with Star	1,478,613	U.S.A.	03/01/88	03/01/08
LEADING THE WAY IN TRANSPORT & DOCK AUTOMATION	1,500,997	U.S.A.	08/23/88	08/23/08
Stylized	1,503,794	U.S.A.	09/13/88	09/13/08
'Morgan' AHS	1,504,607	U.S.A.	09/20/88	09/20/08
'M' with Pinwheel	1,519,555	U.S.A.	01/10/89	01/10/09
Design for Top Corner Structure	1,632,273	U.S.A.	01/22/91	10/20/12
Stylized 'M'	1,725,420	U.S.A.	10/20/92	
Design Corner Cap	1,809,022	U.S.A.	12/07/93	
Design Corner Cap with Light	1,855,674	U.S.A.	09/27/94	
Front Cap Member Design	1,850,643	U.S.A.	08/23/94	

<u>Trademark/Service Mark Trade Name Registered Trademarks</u>	<u>Registration No.</u>	<u>Country</u>	<u>Registration or Filed* Date</u>	<u>Renewal Date</u>
Morgan Corporation M & Design	1,198,614	U.S.A.	06/22/82	
Cold Star	2,109,760	U.S.A.	02/16/96	
Kool-Loc	1,333,152	U.S.A.		
Morgan Pow'r-House	1,268,930	U.S.A.		

## TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

THIS AGREEMENT ("Agreement"), dated as of September 29, 2000, is by and between MORGAN TRAILER FINANCIAL MANAGEMENT, L.P., a Texas Limited Partnership ("Debtor"), with its chief executive office at 1100 Louisiana, Suite 5400, Houston, Texas 77002 and CONGRESS FINANCIAL CORPORATION, a Delaware corporation ("Secured Party"), having an office at 1133 Avenue of the Americas, New York, New York 10036.

### WITNESSETH:

WHEREAS, Debtor has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the trademarks, trade names, terms, designs and applications therefor described in Exhibit A hereto and made a part hereof; and

WHEREAS, Secured Party and J.B. Poindexter & Co., Inc. a Delaware corporation ("Borrower"), have entered into financing arrangements pursuant to which Secured Party may make loans and advances and provide other financial accommodations to Borrower as set forth in the Loan and Security Agreement, dated June 28, 1996, presently by and among Borrower and certain affiliates of Borrower, including Debtor (individually and collectively, "Guarantors") and Secured Party, as amended by Amendment No. 1 to Loan and Security Agreement, dated May 13, 1998, Amendment No. 2 to Loan and Security Agreement, dated as of June 30, 1998, Amendment No. 3 to Loan and Security Agreement, dated as of June 24, 1999, Amendment No. 4 to Loan and Security Agreement, dated as of February 25, 2000, Amendment No. 5 to Loan and Security Agreement, dated as of March 8, 2000, Amendment No. 6 to Loan and Security Agreement, dated as of March 17, 2000, and Amendment No.7 to Loan and Security Agreement, dated as of the date hereof (as the same now exists or may hereafter be further amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement") and other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto, including, but not limited to, the Guarantee (as defined below) and this Agreement (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be further amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "Financing Agreements"); and

WHEREAS, Debtor has absolutely and unconditionally guaranteed the payment and performance of all now existing and hereafter arising obligations, liabilities and indebtedness of Borrower to Secured Party as set forth in the Guarantee, dated of even date herewith, by Debtor in favor of Secured Party (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Guarantee");

WHEREAS, in order to induce Secured Party to continue and to make loans and advances and provide other financial accommodations to Borrower pursuant thereto, Debtor has agreed to grant to Secured Party certain collateral security as set forth herein;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees as follows:

## 1. GRANT OF SECURITY INTEREST

As collateral security for the prompt performance, observance and indefeasible payment in full of all of the Obligations (as hereinafter defined), Debtor hereby grants to Secured Party a continuing security interest in and a general lien upon, and a conditional assignment of, the following (being collectively referred to herein as the "Collateral"): (a) all of Debtor's now existing or hereafter acquired right, title, and interest in and to: (i) all of Debtor's trademarks, tradenames, trade styles and service marks and all applications, registrations and recordings relating to the foregoing as may at any time be filed in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country, including, without limitation, the trademarks, terms, designs and applications described in Exhibit A hereto, together with all rights and privileges arising under applicable law with respect to Debtor's use of any trademarks, tradenames, trade styles and service marks, and all reissues, extensions, continuation and renewals thereof (all of the foregoing being collectively referred to herein as the "Trademarks"); and (ii) all prints and labels on which such trademarks, tradenames, tradestyles and service marks appear, have appeared or will appear, and all designs and general intangibles of a like nature; (b) the goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks; (c) all income, fees, royalties and other payments at any time due or payable with respect thereto, including, without limitation, payments under all licenses at any time entered into in connection therewith; (d) the right to sue for past, present and future infringements thereof; (e) all rights corresponding thereto throughout the world; and (f) any and all other proceeds of any of the foregoing, including, without limitation, damages and payments or claims by Debtor against third parties for past or future infringement of the Trademarks.

## 2. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Secured Party pursuant to this Agreement shall secure the prompt performance, observance and payment in full of any and all obligations, liabilities and indebtedness of every kind, nature and description owing by Debtor to Secured Party and/or its affiliates, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under the Guarantee, this Agreement, the Loan Agreement, the other Financing Agreements or in connection with the transactions contemplated by the Guarantee, this Agreement, the Loan

Agreement or the other Financing Agreements, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Loan Agreement or after the commencement of any case with respect to Debtor under the United States Bankruptcy Code or any similar statute (including, without limitation, the payment of interest and other amounts which would accrue and become due but for the commencement of such case), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured, and however acquired by Secured Party (all of the foregoing being collectively referred to herein as the "Obligations").

### 3. REPRESENTATIONS, WARRANTIES AND COVENANTS

Debtor hereby represents, warrants and covenants with and to Secured Party the following (all of such representations, warranties and covenants being continuing so long as any of the Obligations are outstanding):

(a) Debtor shall pay and perform all of the Obligations according to their terms.

(b) All of the existing Collateral is valid and subsisting in full force and effect, and Debtor owns the sole, full and clear title thereto, and the right and power to grant the security interest and conditional assignment granted hereunder. Except to the extent as may be permitted by Section 3(i) hereof, Debtor shall, at Debtor's expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral consisting of registered Trademarks as registered trademarks and to maintain the existence of all of the Collateral as valid and subsisting, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests or encumbrances of any nature whatsoever, except: (i) the security interests granted hereunder and pursuant to the Loan Agreement, (ii) the security interests permitted under the Loan Agreement, and (iii) the licenses permitted under Section 3(e) below.

(c) Debtor shall not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating to the Collateral, or otherwise dispose of any of the Collateral, in each case without the prior written consent of Secured Party, except as otherwise permitted herein or in the Loan Agreement. Nothing in this Agreement shall be deemed a consent by Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Debtor shall, at Debtor's expense, promptly perform all acts and execute all documents requested at any time by Secured Party to evidence, perfect, maintain, record or enforce the security interest in and conditional assignment of the Collateral granted hereunder or to otherwise further the provisions of this Agreement. Where permitted by law, Debtor hereby authorizes Secured Party to execute and file one or more financing statements (or similar documents) with respect to the Collateral, signed only by Secured Party or as otherwise determined by Secured Party. Debtor further authorizes Secured Party to have this Agreement or

any other similar security agreement filed with the Commissioner of Patents and Trademarks or any other appropriate federal, state or government office.

(e) As of the date hereof, Debtor does not have any Trademarks registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, other than those described in Exhibit A hereto and has not granted any licenses with respect thereto other than as set forth in Exhibit B hereto.

(f) Debtor shall, concurrently with the execution and delivery of this Agreement, execute and deliver to Secured Party five (5) originals of a Special Power of Attorney in the form of Exhibit C annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Secured Party's exercise of the rights and remedies granted to Secured Party hereunder.

(g) Secured Party may, in its discretion, pay any amount or do any act which Debtor fails to pay or do as required hereunder or as requested by Secured Party to preserve, defend, protect, maintain, record or enforce the Obligations, the Collateral, or the security interest and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, and reasonable attorneys' fees and legal expenses. Debtor shall be liable to Secured Party for any such payment, which payment shall be deemed an advance by Secured Party to Debtor, shall be payable on demand together with interest at the rate then applicable to the indebtedness of Borrower to Secured Party set forth in the Loan Agreement and shall be part of the Obligations secured hereby.

(h) Debtor shall not file any application for the registration of a Trademark with the United States Patent and Trademark Office or any similar office or agency in the United States, unless Debtor has given Secured Party thirty (30) days prior written notice of such action. If, after the date hereof, Debtor shall (i) obtain any registered trademark or tradename, or apply for any such registration in the United States Patent and Trademark Office or in any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, or (ii) become the owner of any trademark registrations or applications for trademark registration used in the United States or any State thereof, political subdivision thereof or in any other country, the provisions of Section 1 hereof shall automatically apply thereto. Upon the request of Secured Party, Debtor shall promptly execute and deliver to Secured Party any and all assignments, agreements, instruments, documents and such other papers as may be requested by Secured Party to evidence the security interest in and conditional assignment of such Trademark in favor of Secured Party.

(i) Debtor has not abandoned any of the Trademarks and Debtor will not do any act, nor omit to do any act, whereby the Trademarks may become abandoned, invalidated, unenforceable, avoided, or avoidable; provided, that, Debtor may, after written notice to Secured Party, abandon, cancel, not renew or otherwise not maintain a Trademark so long as (i) such Trademark



(A) is no longer used or useful in the business of Debtor, any other Guarantor, Borrower or their subsidiaries, (B) has not been used in the business of Debtor, any other Guarantor, Borrower or their subsidiaries for a period of six (6) months, (C) is not otherwise material to the business of Debtor, any other Guarantor, Borrower or their subsidiaries in any respect, and (D) has little or no value or (ii) such Trademark is prohibited from being renewed or extended pursuant to applicable law. Debtor shall notify Secured Party immediately if it knows or has reason to know of any reason why any application, registration, or recording with respect to the Trademarks may become abandoned, canceled, invalidated, avoided, or avoidable.

(j) Debtor shall render any assistance, as Secured Party shall determine is necessary, to Secured Party in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, to maintain such application and registration of the Trademarks as Debtor's exclusive property and to protect Secured Party's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

(k) To the best of Debtor's knowledge, Debtor has no notice of any material infringement or unauthorized use presently is being made of any of the Trademarks that would adversely affect in any material respect the fair market value of the Collateral or the benefits of this Agreement granted to Secured Party, including, without limitation, the validity, priority or perfection of the security interest granted herein or the remedies of Secured Party hereunder. Debtor shall promptly notify Secured Party if Debtor (or any Guarantor) learns of any use by any person of any term or design which infringes on any Trademark or is likely to cause confusion with any Trademark. If requested by Secured Party, Debtor, at Debtor's expense, shall join with Secured Party in such action as Secured Party, in Secured Party's discretion, may deem advisable for the protection of Secured Party's interest in and to the Trademarks.

(l) Debtor assumes all responsibility and liability arising from the use of the Trademarks and Debtor hereby indemnifies and holds Secured Party harmless from and against any claim, suit, loss, damage, or expense (including reasonable attorneys' fees and legal expenses) arising out of any alleged defect in any product manufactured, promoted, or sold by Debtor (or any affiliate or subsidiary thereof) in connection with any Trademark or out of the manufacture, promotion, labelling, sale or advertisement of any such product by Debtor (or any affiliate or subsidiary thereof). The foregoing indemnity shall survive the payment of the Obligations, the termination of this Agreement and the termination or non-renewal of the Loan Agreement.

(m) Debtor shall promptly pay Secured Party for any and all expenditures made by Secured Party pursuant to the provisions of this Agreement or for the defense, protection or enforcement of the Obligations, the Collateral, or the security interests and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, travel expenses, and reasonable attorneys' fees and legal expenses. Such expenditures shall be payable on demand, together with interest at the rate then applicable

to the indebtedness of Borrower to Secured Party set forth in the Loan Agreements and shall be part of the Obligations secured hereby.

#### 4. EVENTS OF DEFAULT

All Obligations shall become immediately due and payable, without notice or demand, at the option of Secured Party, upon the occurrence of any Event of Default, as such term is defined in the Loan Agreement (each an "Event of Default" hereunder).

#### 5. RIGHTS AND REMEDIES

At any time an Event of Default exists or has occurred and is continuing, in addition to all other rights and remedies of Secured Party, whether provided under this Agreement, the Loan Agreement, the other Financing Agreements, applicable law or otherwise, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, Debtor except as such notice or consent is expressly provided for hereunder:

(a) Secured Party may, in its good faith determination, require that neither Debtor nor any affiliate or subsidiary of Debtor make any use of the Trademarks or any marks similar thereto for any purpose whatsoever. Secured Party may make use of any Trademarks for the sale of goods, completion of work-in-process or rendering of services in connection with enforcing any other security interest granted to Secured Party by Debtor or any Guarantor or Borrower or for such other reason as Secured Party may determine.

(b) Secured Party may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Secured Party shall in its discretion deem appropriate. Such license or licenses may be general, special or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

(c) Secured Party may assign, sell or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations except that if notice to Debtor of intended disposition of Collateral is required by law, the giving of ten (10) days prior written notice to Debtor of any proposed disposition shall be deemed reasonable notice thereof and Debtor waives any other notice with respect thereto. Secured Party shall have the power to buy the Collateral or any part thereof, and Secured Party shall also have the power to execute assurances and perform all other acts which Secured Party may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Debtor shall be liable for any deficiency.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to the terms hereof, Secured Party may at any time execute and deliver on behalf of Debtor, pursuant to the authority granted in the Powers of

Attorney described in Section 3(f) hereof, one or more instruments of assignment of the Trademarks (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Debtor agrees to pay Secured Party on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and reasonable attorneys' fees and legal expenses. Debtor agrees that Secured Party has no obligation to preserve rights to the Trademarks against any other parties.

(e) Secured Party may first apply the proceeds actually received from any such license, assignment, sale or other disposition of any of the Collateral to the costs and expenses thereof, including, without limitation, reasonable attorneys' fees and all legal, travel and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Obligations as Secured Party may in its discretion determine. Debtor shall remain liable to Secured Party for any of the Obligations remaining unpaid after the application of such proceeds, and Debtor shall pay Secured Party on demand any such unpaid amount, together with interest at the rate then applicable to the indebtedness of Borrower to Secured Party set forth in the Loan Agreement.

(f) Debtor shall supply to Secured Party or to Secured Party's designee, Debtor's knowledge and expertise relating to the manufacture and sale of the products and services bearing the Trademarks and Debtor's customer lists and other records relating to the Trademarks and the distribution thereof.

(g) Nothing contained herein shall be construed as requiring Secured Party to take any such action at any time. All of Secured Party's rights and remedies, whether provided under this Agreement, the other Financing Agreements, applicable law, or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently.

#### 6. JURY TRIAL WAIVER; OTHER WAIVERS AND CONSENTS; GOVERNING LAW

(a) The validity, interpretation and enforcement of this Agreement and the other Financing Agreements and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of New York (without giving effect to principles of conflicts of laws).

(b) Debtor and Secured Party irrevocably consent and submit to the non-exclusive jurisdiction of the Supreme Court of New York for New York County and the United States District Court for the Southern District of New York and waive any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or any of the other Financing Agreements or in any way connected or related or incidental to the dealings of Debtor and Secured Party in respect of this Agreement or the other Financing Agreements or the transactions related hereto or thereto, in each case whether now existing or thereafter arising, and whether in contract, tort, equity or otherwise, and agree that any dispute

with respect to any such matters shall be heard only in the courts described above (except that Secured Party shall have the right to bring any action or proceeding against Debtor or its property in the courts of any other jurisdiction which Secured Party deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against Debtor or its property).

(c) Debtor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified mail (return receipt requested) directed to its address set forth herein and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the U.S. mails, or, at Secured Party's option, by service upon Debtor in any other manner provided under the rules of any such courts. Within thirty (30) days after such service, Debtor shall appear in answer to such process, failing which Debtor shall be deemed in default and judgment may be entered by Secured Party against Debtor for the amount of the claim and other relief requested.

(d) DEBTOR AND SECURED PARTY EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF DEBTOR AND SECURED PARTY IN RESPECT OF THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NO EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. DEBTOR AND SECURED PARTY EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT DEBTOR OR SECURED PARTY MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF DEBTOR AND SECURED PARTY TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(e) Secured Party shall not have any liability to Debtor (whether in tort, contract, equity or otherwise) for losses suffered by Debtor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Secured Party that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any such litigation, Secured Party shall be entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Agreement and the other Financing Agreements.

## 7. MISCELLANEOUS

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or

facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to Debtor:                   Morgan Trailer Financial Management, L.P.  
                                      1100 Louisiana Street, Suite 5400  
                                      Houston, Texas 77002  
                                      Attention: Mr. Stephen Magee

If to Secured                   Congress Financial Corporation  
Party:                            1133 Avenue of the Americas  
                                      New York, New York 10036  
                                      Attention: Mr. Laurence S. Forte

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural. All references to Debtor, Secured Party and Borrower pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns. The words "hereof," "herein," "hereunder," "this Agreement" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 7(e) hereof. All references to the term "Person" or "person" herein shall mean any individual, sole proprietorship, partnership, corporation (including, without limitation, any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

(c) This Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon Debtor and its successors and assigns and inure to the benefit of and be enforceable by Secured Party and its successors and assigns.

(d) If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

(e) Neither this Agreement nor any provision hereof shall be amended, modified, waived or discharged orally or by course of conduct, but only by a written agreement signed by an

authorized officer of Secured Party. Secured Party shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Secured Party. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Secured Party of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Secured Party would otherwise have on any future occasion, whether similar in kind or otherwise.

IN WITNESS WHEREOF, Debtor and Secured Party have executed this Agreement as of the day and year first above written.

MORGAN TRAILER FINANCIAL  
MANAGEMENT, L.P.

By: MORGAN TRAILER MFG. CO.,  
as General Partner

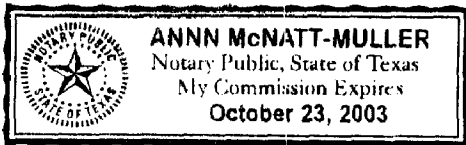
By: *Gurjee*  
Title: *VP*

CONGRESS FINANCIAL CORPORATION

By: *James J. Gatto*  
Title: *AVP*

STATE OF TEXAS )  
 ) ss.:  
COUNTY OF HARRIS )

On this 10<sup>th</sup> day of October, 2000 before me personally came Stephen Magee, to me known, who being duly sworn, did depose and say, that he is the vice president of MORGAN TRAILER MFG. CO., a New Jersey corporation, the general partner of MORGAN TRAILER FINANCIAL MANAGEMENT, L.P., the limited partnership described in and on behalf of which he executed the foregoing instrument; and that he signed his name thereto pursuant to the Certificate of Limited Partnership and the limited partnership agreement of said limited partnership and by order of the Board of Directors of said corporation.



Annn McNatt  
Notary Public

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

On this 29 day of ~~October~~<sup>November</sup>, 2000, before me personally came Terese K. Gatto, to me known, who, being duly sworn, did depose and say, that she is the AVP of CONGRESS FINANCIAL CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

G.S. Hotala  
Notary Public

Notary Public  
NOTARY PUBLIC  
COUNTY OF NEW YORK  
COMMISSION EXPIRES 2002

**EXHIBIT A  
TO TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY DOCUMENT**

**LIST OF TRADEMARKS**

<u>Trademark/Service Mark Trade Name Registered Trademarks</u>	<u>Registration No.</u>	<u>Country</u>	<u>Registration or Filed* Date</u>	<u>Renewal Date</u>
Morgan	912,554	U.S.A.	06/08/71	06/08/01
Curb Sider	1,442,012	U.S.A.	06/09/87	06/09/07
Curtain Slider	1,457,347	U.S.A.	09/15/87	09/15/07
Curtain Slider/Curb Slider	1,466,293	U.S.A.	11/24/87	11/24/07
'M' with Man and Cart	1,478,609	U.S.A.	03/01/88	03/01/08
'M' with Snowflake	1,478,612	U.S.A.	03/01/88	03/01/08
'M' with Star	1,478,613	U.S.A.	03/01/88	03/01/08
LEADING THE WAY IN TRANSPORT & DOCK AUTOMATION	1,500,997	U.S.A.	08/23/88	08/23/08
Stylized	1,503,794	U.S.A.	09/13/88	09/13/08
'Morgan' AHS	1,504,607	U.S.A.	09/20/88	09/20/08
'M' with Pinwheel	1,519,555	U.S.A.	01/10/89	01/10/09
Design for Top Corner Structure	1,632,273	U.S.A.	01/22/91	10/20/12
Stylized 'M'	1,725,420	U.S.A.	10/20/92	
Design Corner Cap	1,809,022	U.S.A.	12/07/93	
Design Corner Cap with Light	1,855,674	U.S.A.	09/27/94	
Front Cap Member Design	1,850,643	U.S.A.	08/23/94	



<u>Trademark/Service Mark Trade Name Registered Trademarks</u>	<u>Registration No.</u>	<u>Country</u>	<u>Registration or Filed* Date</u>	<u>Renewal Date</u>
Morgan Corporation M & Design	1,198,614	U.S.A.	06/22/82	
Cold Star	2,109,760	U.S.A.	02/16/96	
Kool-Loc	1,333,152	U.S.A.		
Morgan Pow'r-House	1,268,930	U.S.A.		
Morgan and Design	1,564,026	Great Britain	Abandoned	
M and White Star Design	1,564,032	Great Britain	03/02/94	
Block M and Design	1,564,030	Great Britain	03/02/94	
Morgan and Design	TMA455,818	Canada	03/22/96	
M and Snowflake Design	749,838 (Pending?)	Canada	03/14/94*	
M and White Star Design	TMA455,819	Canada	03/22/96	
Corner Cap Design	TMA456,234	Canada	03/29/96	
AHS (stylized)	749,524 (Pending?)	Canada	03/14/94*	
M and Pinwheel Design	749,843 (Pending?)	Canada	03/14/94*	
Front Cap Member Design	749,841 (Pending?)	Canada	03/14/94*	
Block M & Design	TMA455,817	Canada	03/22/96	
Corner Cap Design	49,840	Canada	03/14/94*	
Corner Cap Design	TMA456,955	Canada	05/03/96	

**EXHIBIT B  
TO TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY DOCUMENT**

**LIST OF LICENSES**

License Agreement dated as of September 21, 2000, between Morgan Trailer Mfg. Co., as licensee, and Morgan Trailer Financial Management, L.P., as licensor, granting to Morgan Trailer Mfg. Co., a nonexclusive right to use the patents listed on Exhibit A hereto.

**EXHIBIT C  
TO  
TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY AGREEMENT**

**SPECIAL POWER OF ATTORNEY  
(TRADEMARKS)**

STATE OF TEXAS            )  
  ) ss.:  
COUNTY OF HARRIS        )

KNOW ALL MEN BY THESE PRESENTS, that MORGAN TRAILER FINANCIAL MANAGEMENT, L.P. ("Debtor"), having an office at 1100 Louisiana, Suite 5400, Houston, Texas 77002, hereby appoints and constitutes CONGRESS FINANCIAL CORPORATION ("Secured Party"), and each of its officers, its true and lawful attorney, with full power of substitution and with full power and authority to perform the following acts on behalf of Debtor:

1. Execution and delivery of any and all agreements, documents, instrument of assignment, or other papers which Secured Party, in its discretion, deems necessary or advisable for the purpose of assigning, selling, or otherwise disposing of all right, title, and interest of Debtor in and to any trademarks and all registrations, recordings, reissues, extensions, and renewals thereof, or for the purpose of recording, registering and filing of, or accomplishing any other formality with respect to the foregoing.

2. Execution and delivery of any and all documents, statements, certificates or other papers which Secured Party, in its discretion, deems necessary or advisable to further the purposes described in Subparagraph 1 hereof.

This Power of Attorney is made pursuant to a Trademark Collateral Assignment and Security Agreement, dated of even date herewith, between Debtor and Secured Party (the "Security Agreement") and is subject to the terms and provisions thereof. This Power of Attorney, being coupled with an interest, is irrevocable until all "Obligations", as such term is defined in the Security Agreement, are paid in full and the Security Agreement is terminated in writing by Secured Party.

Dated: October \_\_, 2000

MORGAN TRAILER FINANCIAL  
MANAGEMENT, L.P.

By: MORGAN TRAILER MFG. CO.,  
as General Partner

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

Title: \_\_\_\_\_

STATE OF TEXAS            )  
                                  ) ss.:  
COUNTY OF HARRIS        )

On this \_\_\_\_ day of October, 2000 before me personally came Stephen Magee, to me known, who being duly sworn, did depose and say, that he is the vice president of MORGAN TRAILER MFG. CO., a New Jersey corporation, the general partner of MORGAN TRAILER FINANCIAL MANAGEMENT, L.P., the limited partnership described in and on behalf of which he executed the foregoing instrument; and that he signed his name thereto pursuant to the Certificate of Limited Partnership and the limited partnership agreement of said limited partnership and by order of the Board of Directors of said corporation.

\_\_\_\_\_  
Notary Public