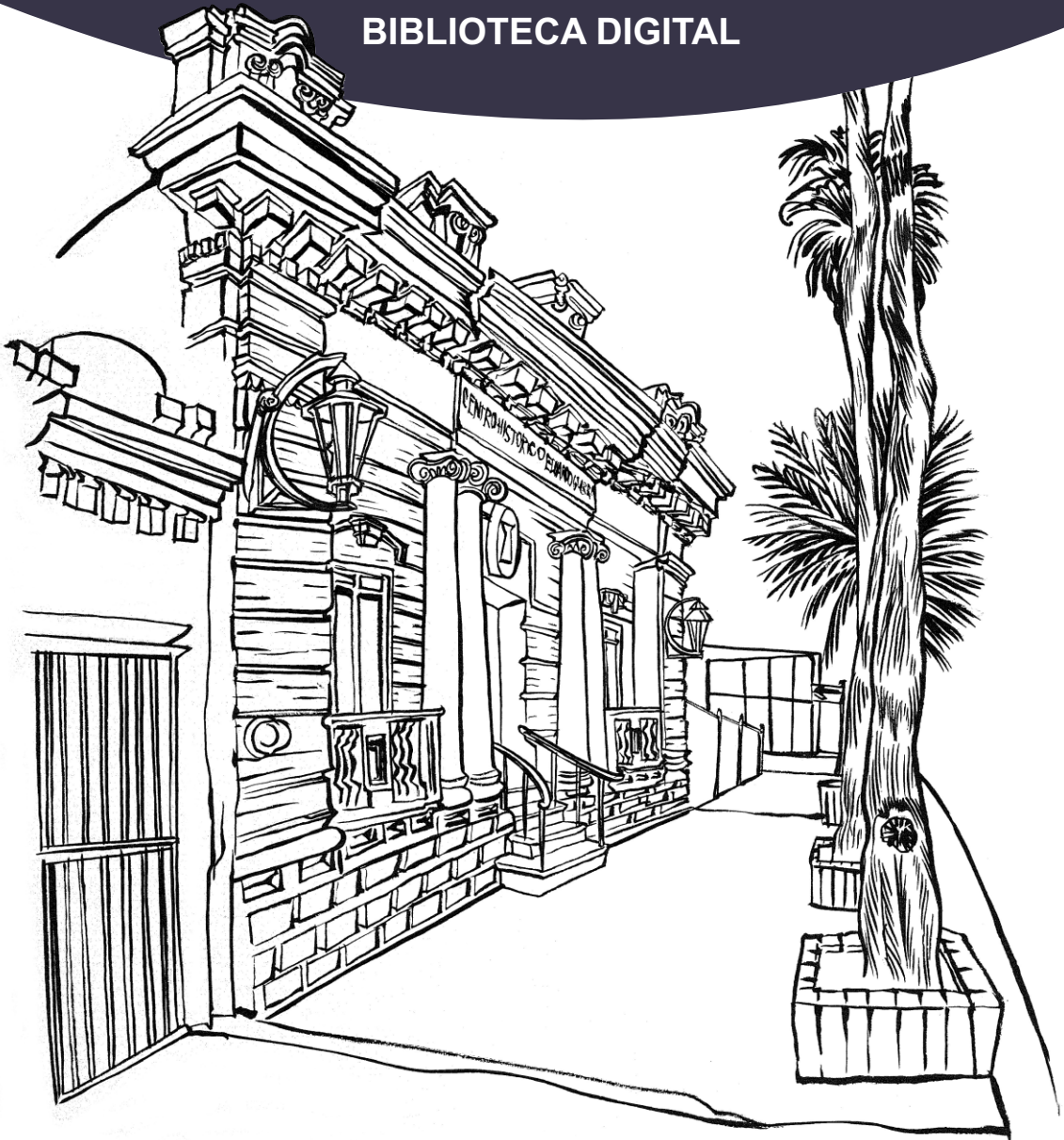




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DATED 22ND AUGUST, 1903.

THE COMPANIA AGRICOLA INDUSTRIAL
Y COLONIZADORA DEL TLAHUALILO,
LIMITADA, SOCIEDAD ANONIMA, repre-
sented by John E. Earley, Manuel Auza,
Miguel de Mendizabal and James E. Kitchin,
of the one part

AND

BARON WELBY OF ALLINGTON, HENRY
PARKMAN STURGIS and JAMES BROWN
POTTER, Trustees, represented by Severo
Mallet-Prevost, of the other part.

Translation of Agreement.

PAINES, BLYTH & HUXTABLE,
14, St. Helen's Place, E.C.

In the City of Mexico, on the 22nd day of August, 1903, before me, AGUSTIN AVENDANO, a Notary Public in charge of the Notary's Office No. 10, and in the presence of the Witnesses hereinafter mentioned, appeared, on the one part, Messrs. John E. Earley, Manuel Auza, Miguel de Mendizabal and James E. Kitchin, who stated respectively : the first, that he is a civil engineer, 62 years of age, residing at house No. 5 in the Fifth Street of Vienna ; the second, that he is an employee, 48 years of age, residing at house No. 1,244 in the Fifth Street of Fuentes Brotantes ; the third, that he is an employee, 45 years of age, residing at Tacubaya, at No. 218 Fifteenth Avenue ; and the fourth, that he is a merchant, 33 years of age, residing at house No. 5/B in the First Street of Providencia : said parties appear in their capacity as Members of the Board of Directors of the Compania Agricola Industrial y Colonizadora del Tlahualilo, Limitada, Sociedad Anonima, and in representation of said Corporation : of the other part there appeared Mr. Severo Mallet-Prevost, as the representative and lawful attorney in fact of Baron Welby of Allington, and of Messrs. Henry Parkman Sturgis and James Brown Potter, in their capacity as Trustees of the First Mortgage Bonds issued by said Company. Mr. Mallet-Prevost stated that he is a lawyer, and a resident of the City of New York, United States of America, temporarily in this City, stopping at the Hotel del Jardin, at Room No. 40 ; all of the persons first above-mentioned are residents of this City ; all are married and have the legal capacity requisite for entering into Contract obligations. I certify to these facts, as also that the parties mentioned are personally known to me, and that they jointly made the following declarations :—

First.—At the General Shareholders' Meeting of the Compania Agricola Industrial y Colonizadora del Tlahualilo, Limitada, Sociedad Anonima (which will hereafter in this Contract be referred to as " the Company ") held on the 31st day of July, 1903, the following persons were appointed members of the Board of Directors :—Messrs. James Brown Potter, John E. Earley, Maxwell A. Kilvert, Manuel Auza and James E. Kitchin ; this is attested by the Minutes of said Meeting as set forth in the Minute Book of Shareholders' Meetings of said Company, at page 2 of leaf 17.

Second.—The By-Laws of the Company were amended by the General Meeting of Shareholders held on the 12th day of the current month of August, and among the amendments is one which relates to the number of Directors, said number having been increased to not less than ten nor more than fifteen, as appears by Article 18 of said amended By-Laws, it being proper to note that said By-Laws were protocolized in the Office of the subscribing Notary under date of the 17th day of the current month and year.

Third.—At the General Shareholders' Meeting held on the 17th day of the current month and year, seven Directors were appointed, in order to bring the total number up to twelve, the persons so appointed being the following :—Messrs. Henry Parkman Sturgis, Reginald Earle Baron Welby of Allington, Sir Alexander Hargreaves Brown, John Greenough, Miguel de Mendizabal, John P. Condit and William J. Duane, as appears by the corresponding Minute found on page 2 of leaf 30 of the Minute Book of the Shareholders' Meetings of the Company.

Fourth.—According to Article 22 of the Amended By-Laws, four Directors constitute a quorum, and consequently the four who now appear in their capacity as Directors of the Company are duly authorized to act as a Board.

Fifth.—On the 14th of November, 1896, the Company entered into an Agreement in this City before the Notary Public Don Manuel M. de Chavero, with Messrs. Howard Potter, Reginald Earle Baron Welby and Henry Parkman Sturgis, which Agreement will hereinafter be referred to as "the Mexican Contract," by virtue of which the Company issued and acknowledged itself indebted for a loan in the sum of £350,000 sterling, represented by Mortgage Bonds of the nominal value of £100 each, secured by mortgage upon the property of the Company.

Sixth.—On the same date there was executed in London, between the same parties, a Contract supplementary to that executed in Mexico, which will be hereinafter referred to as the "English Contract," and which was furthermore annexed to the Mexican Contract in order that it should form a part thereof, and should be inserted therein.

Seventh.—Both in the English Contract and in the Mexican Contract said Howard Potter, Baron Welby and Henry Parkman

Sturgis were constituted Trustees, it being proper to note that in said Contracts they were designated by the title of "Representantes Fiduciarios," and that in the present Contract they are designated by the title of "Fideicomisarios."

Eighth.—Upon the death of Mr. Howard Potter, Mr. James Brown Potter was appointed Trustee in his place, as appears by instrument executed in London, on the 22nd of December, 1897, and protocolized in the City in the office of the Notary Don Manuel Alvarez de la Cadena on April 14th, 1898.

Ninth.—As a result of the foregoing, Baron Welby and Messrs. Henry Parkman Sturgis and James Brown Potter are to-day the Trustees for the First Mortgage Bonds issued by the Company, and are vested with all the powers conferred upon them by the English Contract and the Mexican Contract to represent the holders of said bonds.

Tenth.—According to paragraph 3 of Clause 14 of the Second Schedule annexed to the English Contract, the General Meeting of the Debenture-holders are given the power to assent to any modification of the provisions of said Contract.

Eleventh.—According to Article 34 of the By-Laws of July 24th, 1890, a duly authenticated copy of which is at this time exhibited by the Secretary of the Company, calls for Shareholders' Meetings should be made not less than one month prior to the day of holding the Meeting, by means of notices to be published in the *Diario Oficial* of the Government; but Article 36 of the same By-Laws authorises the Board of Directors to reduce to 15 days the period required for the calling of a Special Meeting of Shareholders whenever, in the judgment of said Board, the purpose of said Meeting may require it.

Twelfth.—The Board of Directors of the Company in the exercise of the powers conferred upon it by said Article 36, and by notices published in the *Diario Oficial* in the issues Numbered 179 and 187, corresponding to July 28th and August 6th of the current year, called a Special Meeting of Shareholders to be held on the 12th day of the current month and year; said call set forth the business to be transacted, specifying, among other things, the following:—"Approval of a Contract between the Company and the Trustees for the Bondholders of the Company, relative to the mortgage credit.

Thirteenth.—According to Article 63 of the By-Laws of July 24th, 1890, the Board of Directors is authorized to contract loans in such form as the General Meeting of Shareholders may determine; and according to paragraph 3 of Article 39 of the same By-Laws, in order that a mortgage shall be constituted upon the real property of the Company, there is required a unanimous vote of not less than two-thirds plus one of the shares outstanding.

Fourteenth.—According to Clause 6 of the Articles of Incorporation of the Company, executed in this City on July 17th, 1890, before the Notary Vicente de P. Velasco, the capital stock of the Company is fixed at 2,600,000 pesos, represented by 2,600 shares of 100 pesos each, and hence the number of shares necessary so that a General Meeting of Shareholders may adopt a Resolution with reference to the mortgaging of the corporate property is 1,734.

Fifteenth.—At the General Meeting of Shareholders held on the 12th day of the current month and year, as appears by the list which was signed by the Shareholders present, 2,540 shares were represented, this being more than the number required by the By-Laws.

Sixteenth.—In the Agreement hereinbefore referred to providing for the issue of Mortgage Bonds, it was stipulated that the Company should pay upon the capital represented by said bonds, interest at the rate of 6 per cent. per annum, and in addition thereto certain sums designated by said Contract for account of sinking fund.

Seventeenth.—For a period of several years the Company has failed to meet any of these obligations; since July 1st, 1900, it has failed to make any payments for account of sinking fund, and since October 1st, 1899, it has failed to pay any interest; these defaults, according to the terms of the Contract referred to, give the Bondholders the right to declare the principal of the bonds to be due, and permit them to sell the mortgaged premises, provided the Company should be required to make payment and should fail to do so within three months after notice to that effect.

Eighteenth.—The Company was declared bankrupt, and as a consequence of this, and also of the disastrous condition of its affairs, and of the complicated litigations conducted in London and in this City, it became almost ruined; the Trustees not only refrained from

from exercising the rights conferred upon the Bondholders to declare the bonds due and to proceed to a sale, but furthermore obtained for the Company temporary loans in excess of 500,000 pesos, and consented on behalf of the Bondholders that these loans should enjoy a lien prior to the lien of the Mortgage Bonds.

Nineteenth.—The financial condition of the Company, and the efforts which the Trustees made in order to save it from the disastrous position in which it was placed, required on the part of the Trustees large expenditures of money, and the rendering of services which entitled them to compensation; the Company has agreed to pay said expenses and compensation.

Twentieth.—Furthermore, although the Bondholders have the right, as already stated, to declare the bonds to be due, and to proceed to a sale of the mortgaged premises (a step which would result in the complete ruin of the Company, since it is without the necessary funds to pay the amount due to the Bondholders for capital and interest), said Bondholders have nevertheless signified their willingness to make a settlement upon terms and conditions which shall compensate them for releasing the Company from the situation referred to.

Twenty-first.—In order that an Agreement might be entered into which should satisfy the Bondholders, and which should avoid a sale of the property under foreclosure, the Board of Directors presented to the General Meeting of Shareholders, held on the 12th day of the present month and year, certain propositions, which were unanimously approved by said General Meeting of Shareholders, as appears from leaf 31 of the Minute Book of the General Meeting of Shareholders of the Company.

Twenty-second.—Among the propositions thus approved are the following :—

XIV. The Trustees shall have the right to declare the principal of said indebtedness to be due, and may, without the necessity of any demand upon the Company, enforce immediate payment both of the Mortgage Bonds issued under the Contract of November 14th, 1896, which may remain unpaid, as also of the indebtedness of £107,150 sterling, which the Company

acknowledges under propositions Seventh and Eighth in any of the following cases :—

A. If the interest upon the Mortgage Bonds, or upon any part thereof, or upon the said indebtedness of £107,150 sterling, should not be paid when due.

B. If the Company in any year should fail to pay to the Trustees, at or before the date fixed for such payment, the sum of £20,000 sterling mentioned in proposition Tenth.

C. If the Company in any year should fail to pay to the Trustees on the date and in the manner set forth in propositions Eleventh and Twelfth, the net products derived from the properties of the Company, according to the liquidation which may be made by the accountants to be appointed by the Trustees.

D. In any other case where, according to law, any obligations should become due before the time originally fixed.

XV. The Trustees shall also have the right to place the properties of the Company in deposit and in the hands of a Receiver upon such terms and conditions as may be agreed upon with the Company.

XVI. In case of execution in order to make effective the credits to the payment of which the Company is obligated according to the Contract of November 14th, 1896, and according to the present propositions, all expenses incident thereto, and such expenses as the Trustees may incur until such credits, together with the interest thereon, shall have been paid, shall be for account of the Company.

XVII. All expenses incident to Contracts, or to the receipt and cancellation thereof, and expenses incident to the record of the same, shall be for account of the Company.

XIX. Such modifications as may be agreed upon with the Trustees shall be made to the Agreement of November 14th, 1896, both for the purpose of bringing the same into accord with the present propositions, as also in order that the mortgages and in

any case the collection of the amounts due by the Company, according to said Contract, and according to the present propositions, may be made without the necessity of judicial proceedings, without appraisement of properties, and without difficulties or obstacles of procedure ; for this purpose the benefit of any and all laws may be renounced.

XX. The proper jurisdiction for all the matters relating to said credits shall be the City of Mexico.

XXI. The Board of Directors of the Company is hereby authorized to agree with the Trustees regarding all the clauses, condition and renunciations of laws which the foregoing propositions may necessitate ; it is also authorized to amend and to supplement the Agreement of November 14th, 1896, not only in so far as may be required by the foregoing propositions, but also with respect to any other points even though they have no connection with nor reference to the foregoing propositions ; it is further authorised, either directly or by means of such person or persons as it may appoint, to execute the new instruments which may be necessary.

Twenty-third.—In compliance with the Resolutions of the Shareholders' Meeting, and in accordance with the Agreement entered into with the Trustees, an instrument was executed by both parties hereto before the subscribing Notary Public, under date of yesterday, signed to-day, settling the differences between them ; said instrument contains the following Clause :—

“*Sixth.*—A separate instrument shall be executed which shall contain the amendments and additions to be made to the Contract of November 14th, 1896, according to the provisions of proposition (XXI.) Twenty-first.”

I, the subscribing Notary Public, have before me the following instruments :—The Minute Book of General Meetings of Shareholders of the Company ; the Record of the Meeting held on the 12th day of the current month and year ; the Articles of Incorporation of July 17th, 1890, executed before the Notary Don Vicente de P. Velasco ; the By-Laws of July 24th of the same year, and the Contract relative to the issue of Mortgage Bonds executed on the

14th of November, 1896, before the Notary Don Manuel M. de Chavero ; the instrument protocolized on April 14th, 1898, in the Office of the Notary Don Manuel Alvarez de la Cadena ; the instrument amending the By-Laws, and the Agreement of Settlement, executed before me respectively, on the 17th of the present month of August, and under date of yesterday (the 21st of said August) and signed to-day. In view of these instruments I hereby certify as follows :—

I. That at the General Meeting of Shareholders held on the 31st day of July last, the following were elected Directors of the Company :—Messrs. James Brown Potter, John E. Earley, Maxwell A. Kilvert, Manuel Auza and James E. Kitchin ; and that at the Meeting held on the 17th of the present month of August, the following additional Directors were elected :—Reginald Earle Baron Welby -of Allington, Sir Alexander Hargreaves Brown. and Messrs. Henry Parkman Sturgis, John Greenough, Miguel de Mendizabal, John P. Condit and William J. Duane.

II. That according to the Amended By-Laws, which were protocolized in the office of the subscribing Notary, the number of Directors was increased to not less than ten nor more than fifteen, of whom four should constitute a quorum with authority to act as a Board.

III. That according to the Agreement under which the issue of Mortgage Bonds was made, and which contains the Contracts heretofore referred to as "Mexican" and "English," executed in Mexico and London, on November 14th, 1896, the stipulations therein made were so made with Baron Welby, and with Messrs. Howard Potter and Henry Parkman Sturgis in their capacity as Trustees of the Bondholders ; that according to the instrument executed in London, and protocolized in the office of the Notary Don Manuel Alvarez de la Cadena, on April 14th, 1898, Mr. James Brown Potter was appointed Trustee to succeed Mr. Howard Potter ; and that according to paragraph 3 of Clause 14 of the Second Schedule annexed to the English Contract, it is stated that the General Meeting of Debenture-holders has the power to assent to any modifications of the provisions of said Contract.

IV. That according to Article 34 of the By-Laws of July 24th, 1890, the Board of Directors may call a Special General Meeting of

Shareholders upon a notice of 15 days prior to the day upon which said Meeting is to be held ; that the Meeting held on August 12th last, was called by notices published in the *Diario Oficial* hereinbefore mentioned, and that the order of the day published in said call included the point which has hereinbefore been inserted.

V. That according to the list of Shareholders attending, 2,540 shares were represented out of a total of 2,600 shares, which according to the Articles of Incorporation of July 17th, 1890, constitute the capital stock of the Company.

VI. That the propositions above inserted were presented to said Meeting, and that according to the Minutes of said Meeting the same were approved by Shareholders representing the 2,540 shares present ; that the propositions above inserted are an exact copy of the propositions which were approved by the Shareholders' Meeting, the only difference between the present copy of said propositions and the original as set forth in the Minutes, being that in the copy herein the paragraphs are marked with Roman numbers, while in the original propositions they are indicated by Arabic numbers ; also that the paragraphs here indicated by letters are there indicated by Roman numerals.

VII. That the Agreement of Settlement executed before me yesterday, and signed to-day, between the Trustees and the Shareholders, also contains the stipulation above inserted authorizing the execution of a Contract which shall embody modifications and additions to the Contracts of November 14th, 1896, relative to the issue of Mortgage Bonds.

The parties hereto continued their declarations, and stated that in order to give effect to said stipulation, and hence in order to give effect to the Contract of Settlement before-mentioned, they have agreed to the following Clauses and Conditions :—

First.—It is hereby declared and noted that 184 bonds, representing £18,400 sterling out of a total of 3,500 Mortgage Bonds issued according to the First Clause of the Mexican Contract, have been paid.

Second.—As a result of the declaration contained in the preceding Clause, the Trustees hereby acknowledge receipt of said £18,400

sterling, and hereby consent to the cancellation of said bonds, and to the entering of the proper records with reference to said payment.

Third.—The stipulations contained in Clause Sixth of the Mexican Contract, and in Clauses 17, 18, 19, 20 and 21 of the English Contract, are hereby cancelled and made of non-effect, and in place thereof the following Rules shall be observed :—

I. The sum of £20,000 sterling which the Company undertakes to deliver to the Trustees annually according to proposition Tenth (X.), which is a condition of the settlement executed between the parties on the 21st of the present August, and signed to-day, before the Notary Public, and the net products which the Company is also obligated to deliver to said Trustees, according to proposition Eleventh (XI.) of said Settlement Agreement, shall be applied to the payment of the indebtedness in the following manner :—

A. To the payment of the remuneration and expenses which the Company is obligated to pay under the provisions of Clause 22, of paragraph 6 of Clause 24, and of Clauses 25, 26 and 27 of the English Contract ; and in general to the payment of all expenses which the Trustees may have the right to incur for account of the Company, according to the Mexican and English Contracts, or which the Company may be obligated to pay according to said Contracts. All the payments which the Company may make by virtue hereof, shall be included in the expenses of administration and operation, which, according to Section A. of proposition (XI.) Eleventh of the Agreement of settlement before mentioned, are to be deducted in order to determine the net products which the Company shall pay over to the Trustees according to said proposition. The Company shall have no power to refuse to make the payments referred to in this paragraph when required so to do by the Trustees ; but in case it should fail to do so, the sums which the Trustees may receive under the accounts mentioned at the beginning of this Clause, shall be preferentially applied to such payments.

B. To the payment of the interest which may accrue upon the Mortgage Bonds, and upon the indebtedness that the Company acknowledges under Sections A., C., of proposition (III.)

Third, Section E. of proposition (IV.) Fourth, propositions (VI.) Sixth, (VII.) Seventh, (VIII.) Eighth, and (IX.) Ninth of the Contract of Settlement hereinbefore referred to. Said interest shall be paid semi-annually on the First days of February and August of each year, and the Clauses of the Mexican Contract which fix different dates for the payment of the interest upon the Mortgage Bonds, are hereby cancelled.

c. To the payment of the principal indebtedness which the Company recognises under Sections A. and C. of proposition (III.) Third, Section E. of proposition (IV.) Fourth, and under propositions (VI.) Sixth, (VII.) Seventh, (VIII.) Eighth and (IX.) Ninth of the Contract of Settlement. The different items constituting this indebtedness shall be paid in the order stipulated under Clause 5 of said Agreement of Settlement. and the payment of this indebtedness shall have preference over the Mortgage Bonds.

d. To the payment of the principal represented by the Mortgage Bonds ; and in this regard Clause Eleventh of the Mexican Contract which constitutes the mortgage obligations a first lien, is modified to the extent that may be necessary in order that it shall be in conformity herewith.

II. The sums which the Trustees may receive for the purposes above indicated, shall by them be applied to the objects mentioned, without other obligations on their part towards the Company than the following :—

a. As regards the expenses and remunerations mentioned in Section a. of the preceding paragraph, the obligation of the Trustees shall be limited to presenting the Company with a detailed statement of the payments made.

b. As regards interest represented by coupons, the surrender of these shall constitute a sufficient release for the Trustees.

c. As regards interest which is not represented by coupons, it will be sufficient for the Trustees to present to the Company a statement setting forth the principal in-

debtedness upon which interest has been paid, the amount of said interest, and the period which said payment is intended to cover.

d. As regards the Mortgage Bonds, the surrender of said bonds duly cancelled shall constitute a sufficient release.

e. The bonds surrendered under the sinking fund, together with the coupons paid, shall before delivery to the Company be cancelled by the Trustees by means of punching a hole through the middle. Clause Eighth of the English Contract is hereby cancelled in so far as it relates to obligations imposed upon the Trustees to present proof of payments in due form, it being agreed that the Trustees shall be at liberty to use this means of proof or not at their option. The stipulations of Clause Ninth of the English Contract shall be observed with reference to payments which may be made according to said Clause.

III. The Company may at any time pay the total amount represented by the Mortgage Bonds and by the indebtedness referred to under Sections B. and C. of the forgoing paragraph, without being obliged, on account of said earlier payment, to pay the premium of 10 per cent. stipulated in paragraph 13 of the certificate endorsed upon said bonds and which forms a part of the First Schedule annexed to the English Contract, and said premium is hereby cancelled.

Fourth.—The stipulations contained in Clauses Eighth of the Mexican Contract, and Thirteenth and Twenty-eighth of the English Contract, are hereby cancelled and made of non-effect, and in their place the following rules shall be observed :—

I. The Company undertakes to carry on its business and operate its properties with all due attention and regularity, and to comply with the provisions of the Mexican Laws relative to accounting and books of account.

II. The Company shall within the first 15 days of each month deliver to the Trustees a certified copy :—

a. Of the entries in all its books of accounts made during the preceding month.

b. Of the Minutes of its Board of Directors.

c. Of the Minutes of the General Meetings of Shareholders.

III. The Trustees shall at all times have the right to appoint agents, attorneys in fact, inspectors and accountants to examine the books of accounts, the business, operations, management and properties of the Company.

IV. The Company shall be obliged to present to the Trustees, their agents, attorneys in fact, inspectors and accountants, all reports, and oral or written explanations which they may demand, and to show its books of account, correspondence, and every class of documents.

V. The Company shall keep in Mexico a registry of the Mortgage Bonds mentioned in Clause Fourteen of the English Contract, and in so far as said Clause requires such registry to be kept in London, the same is hereby cancelled. The Company shall remit to the Trustees on the First days of each month a certified copy from the registry, showing the records which may have been made during the preceding month. The place and manner of keeping a registry of the holders of registered obligations is left open to future agreement.

Fifth.—Clauses 12 of the Mexican Contract and 2, 3 and 4 of the English Contract are rescinded and made of non-effect. The Trustees shall in any of the following cases have the right to declare due not only the principal indebtedness referred to in Sections B. and C. of paragraph (1) First of Clause (3) Three, but also the principal represented by the Mortgage Bonds :—

I. If the Company should fail to deliver to the Trustees, either in whole or in part, during any year, the sum of £20,000 sterling mentioned in proposition Tenth (X.) of the Agreement of Settlement.

II. If the Company should fail to deliver to the Trustees in any year the net products realized from the properties of the

Company, according to the liquidation which may be made by the accountant or accountants to be appointed by the Trustees, and in the manner provided by propositions Eleventh (XI.) and Twelfth (XII.) of the said Agreement of Settlement.

III. If the sums which the Company may pay over during any one year for account of the £20,000 sterling referred to in paragraph First (I.) of this Clause, shall not suffice to pay the interests mentioned in Section B., paragraph First (I.) Clause Third (3) of this Agreement, when the same shall be due.

IV. If the Company should resist or refuse to allow the accountants appointed by the Trustees to make the annual liquidation of the net products, or should fail to furnish to the Trustees the data and accounts which these latter may require in order to make said liquidation.

V. If the Company should fail to furnish to the Trustees, and to the agents, attorneys in fact, inspectors and accountants, which they may appoint according to paragraphs Third (III.) and Fourth (IV.) of Clause Fourth (4) of this instrument, the books of account, documents and reports which said Trustees, agents, attorneys in fact, inspectors and accountants may request, or if said Company should in any way refuse to permit an inspection and examination by any of said persons of the state and administrative condition of its properties.

VI. In any of the cases in which, according to law, an indebtedness may be declared to be due before the date originally fixed.

Sixth.—Clause 16 of the Mexican Contract is rescinded and made of non-effect. In case the capital represented by the bonds and the principal indebtedness referred to in Sections B. and C. of paragraph first (I.) of Clause Three (3) shall become due, so that the payment thereof may be demanded, the Trustees shall have the right to proceed in any of the following manners :—

I. To appoint one or more depositaries to act in the Republic of Mexico or elsewhere.

II. To appoint one or more interventors (interventores) to act in the places last-mentioned.

III. To take possession of the properties covered by the mortgage.

IV. To proceed to the sale of said properties.

The exercise of one or more of the powers conferred under this article shall not prevent the representative of the Bondholders from at any time exercising any of the others above enumerated. For the purposes of this Clause the Company hereby renounces the provisions of Article 966 of the Code of Civil Procedure of the State of Durango, and Article 996 of the Code of Civil Procedure of the Federal District which confer upon the debtor the right to act as depositary of the mortgaged premises from the date of the issuing of the "cedula hipotecaria."

Seventh.—Every depositary appointed by the Trustees, according to paragraph First (I.) of the foregoing Clause, shall be in duty bound to demand and receive in the name of the debtor Company and of the Trustees, payment of all the products of the mortgaged premises, and is hereby authorised to receipt for said products. He shall also have the right to examine all the documents, books and papers of the Company, within or without the Republic of Mexico, and to be informed regarding all the acts and operations of the Company; and said Company shall in every way facilitate the action of the depositary and the compliance by him of the duties imposed.

Eighth.—Every interventor or interventors, appointed by the Trustees, according to paragraph Second (II.) of Clause Sixth (6) shall have the same powers as said depositary, and in addition thereto the debtor Company, after the appointment of said interventor, or interventors, shall not enter into any new Contract, and shall not make any payment without the written consent of said interventor, or interventors; said interventor or interventors, may attend the General Meetings of Shareholders and the Meetings of the Board of Directors of said Company, and for this purpose they shall receive notice of said Meetings. They shall furthermore have the right to be informed of all acts and contracts which may be performed or made by the employees and agents of the debtor Company.

Ninth.—In case the Trustees should take possession of the properties covered by the mortgage, the debtor Company shall deliver to said Trustees, and to their agents, or attorneys in fact, the books,

documents and papers necessary for the management and administration of the business of the Company, and said Trustees, their agents or attorneys in fact, shall assume the management of the business to the exclusion of the Company, and with the same powers which appertain to said Company ; consequently said Trustees, their agents or attorneys in fact, shall be authorised to manage the mortgaged premises, and to enter into any Contracts which such management may necessitate, but said Trustees, their agents or attorneys in fact, shall be obliged to report monthly to the Company regarding all Contracts which it may have executed during the month, accompanying said report with a copy of the account showing receipts and expenditures. Clause Ten (10) of the English Contract is hereby rescinded and made of non-effect.

Tenth.—If it should be decided to foreclose the mortgage, and, pursuant to said foreclosure, to sell the mortgaged premises, the Trustees may at their option proceed according to any one of the following methods :—

I. By an extra-judicial sale of the mortgaged premises through the agency of a " titled " broker, to be appointed by the Trustees, provided the price shall in no case be less than a sum equal to the amount of the indebtedness at the time of said sale, including accrued interest and all expenses connected with the management and sale of the properties : this may be done without the necessity of any appraisal proceedings, nor of any public sale, nor of any judicial sale, all of this being in accordance with the provisions of Article 1,009 of the Code of Civil Procedure of the Federal District, of Article 979 of the Code of Civil Procedure of Durango, of Article 1,931 of the Civil Code of the Federal District, and of Article 1,774 of the Civil Code of Durango.

II. By an adjudication of the mortgaged premises to the Trustees on behalf and for the benefit of the Bondholders, at a price equal to the amount of indebtedness remaining unpaid at the time of said adjudication, together with accrued interest and expenses connected with the administration and management of said properties. For this purpose, in the exercise of the privilege conferred by Article 746 of the Code of Civil Procedure of the Federal District, and by Article 715 of the Code of Civil

Procedure of Durango, the right to a public sale is hereby renounced.

III. By a judicial sale, as provided by Clauses Eleven (11), Twelve (12) and Thirteen (13), and in so far as said Clauses fail to provide, then according to the provisions of the Code of Civil Procedure of the Federal District regarding public sales.

Even though the Trustees should elect the medium of an extra-judicial sale, they may at any time abandon this course and proceed by judicial sale.

Eleventh.—In the case of paragraph Third (III.) of the foregoing article, the sale of the mortgaged premises may be effected without any previous judicial proceeding, nor judgment, and solely by virtue of the present agreement. In case of a public judicial sale the following rules shall be observed :—

I. During the proceedings of sale the Trustees shall have possession of the mortgaged premises ; but they may at any time suspend the exercise of this right, and appoint a depository or interventor to take charge of the mortgaged premises, the Trustees meanwhile holding their right of possession in suspense.

II. The Trustees shall be at liberty to fix the price which shall serve as a basis for the public sale of the mortgaged premises, provided said price shall not be less than a sum equal to the amount of indebtedness due, together with accrued interest, plus 50 per cent. of said total sum.

III. For the purposes of the sale notices shall be published in the City of Mexico, as provided by the Code of Civil Procedure of the Federal District, and to this end the provisions of Articles 723 of the Code of Civil Procedure of Durango and of 754 of the Code of Civil Procedure of the Federal District, which require that notices shall be published at the place where the property is located, are hereby renounced.

IV. In default of bidders the procedure shall be according to the provisions of Articles 847 and 848 of the Code of Civil Procedure of the Federal District, and also according to Article 849 of said Code, except so far as the creditor may have a right to solicit an adjudication in his own favor.

Twelfth.—The Trustees shall have the following rights :

I. In case of an extra-judicial sale, according to paragraph First (I.) of Clause Ten (10), they shall have the right to apply the mortgaged premises in payment, in the name and for the benefit of the Bondholders, at a price equal to the nominal amount of the outstanding unpaid bonds, together with accrued interest and expenses of sale and administration ; provided always that the highest cash bid by third parties according to paragraph First (I.) shall be less than the price just indicated.

II. In case of a judicial sale, the Trustees may bid in the name and for the benefit of the Bondholders, and in default of other bidders may solicit adjudication in payment, but their bid, or in its case, the price of adjudication, shall not exceed the price mentioned in the preceding paragraph.

III. The Trustees shall receive the price of the sale ; they shall deduct therefrom all the expenses connected with the administration and preservation of the mortgaged premises ; also the expenses connected with the foreclosure of the mortgage, and the sale of the properties, including the compensation of depositaries, interventors, attorneys in fact and lawyers. The balance remaining after the deduction of said expenses shall be applied to the payment of the indebtedness according to the order prescribed by paragraph First (I.) of Clause Third (3) of this instrument. The Mortgage Bonds shall be paid upon equal terms and *pro rata*, without any bond being preferred over any other ; the balance, if any, shall be paid over to the debtor Company, the Trustees being charged with the duty of making the payments, the distribution and the applications provided for by this article. In case of judicial sale, if the price should not be sufficient to make the payments above mentioned, the debtor Company shall pay the deficit if it should have other property, or if it should subsequently acquire other assets. For the purposes of this paragraph Articles 839 and 840 of the Code of Civil Procedure of the Federal District, and 807 and 808 of the Code of Civil Procedure of Durango, are hereby renounced in so far as said Articles provide that the price for the properties sold at judicial sale shall be deposited to the Order of the Judge and that payments shall be made by him. Clause Five (5) of the English Contract is hereby rescinded.

IV. At any judicial or extra-judicial sale the Mortgage Bonds and the overdue coupons shall be received in payment of the purchase price at a valuation not exceeding par, but which shall be diminished proportionately if the purchase price should not be sufficient to liquidate all the outstanding unpaid bonds, with their interests and expenses. In this case the purchase price, after deducting the expenses, shall be distributed proportionately among all the bonds, and these shall be accepted as payment of that portion of said price.

Thirteenth.—In order to facilitate the foreclosure of the mortgage the following stipulations and agreements are hereby entered into :—

I. In case of judicial proceedings the debtor Company shall under no circumstances be permitted to set up any defences except those of payment and “novacion,” evidenced by public instrument, which shall be presented at the time of setting up said defence. If the proceedings should have been instituted because of failure to pay interest, the defence of payment shall only be admissible provided at the time of setting up said defence the debtor Company shall present the coupons alleged not to have been paid.

II. The defence to be made by the Company, or by third parties, shall be in accordance with the procedure prescribed by Articles 1,010 and 1,014 of the Code of Civil Procedure of the Federal District.

III. The Company hereby renounces all methods of presenting proof prescribed by law, except those which are expressly mentioned in paragraph First (I.) of this clause.

IV. In case of action in the Courts, the judgment rendered on first instance in favour of the creditors shall be executed. For this purpose the Company renounces the rights of appeal, “casacion” and “amparo.” For the purposes of this paragraph the Company renounces Article 651 of the Code of Civil Procedure of the Federal District and 621 of the Code of Civil Procedure of Durango, which allow the litigants the right to appeal; also Articles 701 of the first Code above mentioned and 670 of the second Code above mentioned, which allow said right of appeal to him who may have been prejudiced by a violation of

law : also Articles 1,344 and 1,345 of the Code of Commerce, which allow the right of " casacion " in commercial matters.

V. If notwithstanding the foregoing waivers an Appeal by the Company should be admitted, the judgment rendered in first instance shall be executed without any necessity on the part of the Trustees to give security, and for this purpose there are hereby renounced Articles 656 of the Code of Civil Procedure of the Federal District, and 626 of the Code of Civil Procedure of Durango, which require the presentation of security or of a bond as a pre-requisite to the execution of a judgment rendered at first instance in cases where the appeal taken may result in directing a return of the property sold.

VI. The depositaries or interventors which may be appointed by the Trustees according to Sections First (I.) and Second (II.) of Clause Six (6), or in any other case where the laws authorise such appointment, shall not be required to be owners of real estate, nor to furnish security, but the Trustees shall have the right to demand or not, at their option, from the depositaries or interventors, security for their acts, and may also determine the character and conditions of said security. For the purposes of this paragraph Articles 809 of the Code of Civil Procedure of the Federal District, and 777 of the Code of Civil Procedure of Durango, are hereby renounced.

VII. The Trustees shall at all times have the right freely to remove the depositaries or interventors which may have been appointed, even though their appointments may have been made under judicial proceedings, and they may appoint others in their stead.

VIII. The depositaries or interventors who may be selected shall be appointed at the risk of the debtor Company, and said Company shall have no right to bring any action nor to make any demand against the Trustees, or against the Bondholders, but only against the depositary or interventor who may have failed in the performance of his duties. Articles 812 of the Code of Civil Procedure of the Federal District and 780 of the Code of Civil Procedure of the Code of Durango, which provide that the depositary and the plaintiff shall be jointly liable whenever the appointment of the depositary shall have been made by the plaintiff, are hereby renounced.

IX. In all cases where the office of judicial depositary or interventor shall be vacated, either because of failure on the part of said officials to present their accounts, or because of non-approval of said accounts, or for any other cause, the Trustees shall have the right to appoint a new interventor or depositary, and for this purpose there are hereby renounced the latter part of Article 811 of the Code of Civil Procedure of the Federal District and the latter part of Article 779 of the Code of Civil Procedure of Durango, in so far as these provide that the appointment of a new depositary shall be made by the Judge in case of the removal of the former depositary for any of the causes in said articles mentioned.

X. The Trustees shall not be obliged to present the security prescribed by Article 28, paragraph VIII., and by Article 938 of the Code of Civil Procedure of the Federal District, as a prerequisite to the institution of suit in cases where the plaintiff is a foreigner or non-resident, and the provisions of said articles are hereby renounced.

XI. Neither the bidders nor the Trustees, in case these latter should become bidders, shall be obliged to present security for their bids. Articles 829 of the Code of Civil Procedure of the Federal District and 797 of the same Code of Durango, which require that bids shall be guaranteed by "papel de abono," are hereby renounced.

XII. Whenever the Trustees shall institute proceedings before any of the Courts of the Republic of Mexico for the purpose of exercising any of the rights or privileges conferred upon them by this instrument, it shall not be necessary for them to present the Mortgage Bonds to the Court; it shall be sufficient in all cases if they shall present the agreement authorising the issue of said bonds, dated November 14th, 1896, the agreement of settlement of the 21st day of the current month and year (should it be required), the present instrument, and the instruments supplementary thereto, or confirmatory thereof, which may hereafter be executed.

XIII. The obligation contracted by the Company under Clause 15 of the Mexican Agreement, to the effect that it shall

not have the right to ask for a reduction of the indebtedness, nor for a release of the mortgaged premises, is hereby amplified so that in case the property or properties of the Company should be restored or improved, the indebtedness secured thereon shall revive even though said property or properties should have been restored or improved by third parties, and the Trustees shall have the right to collect the amounts overdue. For this purpose there are hereby renounced Article 3,092; also Articles from 3,094 to 3,097 of the Civil Code of the Federal District; also Article 2,958 and Articles from 2,960 to 2,963 of the Civil Code of Durango, in so far as these may be contrary to the stipulations of this paragraph. The stipulations of this paragraph shall be observed even though the thing itself should have disappeared as a result of accident or major force, and for this purpose there are hereby renounced Articles 1,462 of the Civil Code of the Federal District, and 1,305 of the Civil Code of Durango, in so far as these Articles provide that no one shall be obligated in case of accident.

XIV. For the purposes of paragraph 11 of Clause 24, and of Clause 25 of the English Contract, there are hereby renounced the final part of Article 1,478 of the Civil Code of the Federal District, and the final part of Article 1,321 of the Civil Code of Durango, which fix the liability in cases of damage resulting from an act lawful in itself, but in the execution of which there may have been fault or negligence; also Articles 1,446 and 1,447 of the Code first mentioned, and Articles 1,289 and 1,290 of the Code next mentioned, which define negligence or culpability, and which describe the manner in which these shall be determined: said Articles are renounced in so far as they may be contrary to said paragraph and Clause 24 and Clause 25 of the English Contract.

Fourteenth.—All costs and expenses which it may be necessary to incur in case of instituting any of the proceedings contemplated by Clauses 6 to 13 of the present instrument, as also all expenses occasioned by the sale, including the taxes upon the transfer of title, and the cancellation of the mortgage and of the contract constituting said mortgage, shall be for account of the Company, and said Company shall pay the same.

Fifteenth.—The stipulations of Clause 6 of the English Contract shall be applicable to all the funds which may be received by the Trustees, and shall not be limited to such as they may receive for account of price in case of sale of the property.

Sixteenth.—Clause 4 of the Mexican Contract shall be understood to be modified in the sense that the English Contract forms part thereof, and that it shall be binding upon both parties, subject to such rescissions, innovations, modifications and additions as may be made thereto by the present Contract.

Seventeenth.—The certificate printed on the back of the bonds, which certificate forms a part of the Second Schedule to the English Contract inserted in the agreement of November 14th, 1896, shall be understood to be modified to accord with the present contract, and the same shall be rescinded in so far as it is contradictory hereto.

Eighteenth.—The faculties conferred upon the Trustees, and upon their agents, by paragraph 9 of Clause 29 and by paragraph 30 of the English Contract, are kept alive by the present Contract.

Nineteenth.—The Company binds itself, whenever required by the Trustees, to execute any and all other agreements and instruments supplementary hereto which, in the opinion of such lawyer as the Trustees may consult, may be necessary or advisable in order to better secure the rights of the Bondholders under the agreement of November 14th, 1896, under the agreement of settlement of the 21st of the current month, executed before the subscribing Notary Public, and under the present instrument.

Twentieth.—It being provided by paragraphs second and third of the fourteenth Clause of the Second Schedule annexed to the English Contract that the General Meeting of Debenture Holders shall have the power to sanction any modification, compromise or arrangement of the rights of the Debenture Holders against the Company, and to assent to any modification of the provisions of the Contract of November 14th, 1896, the Trustees hereby undertake to obtain the approval and ratification of the present instrument by the General Meeting of Debenture Holders, with the understanding that notwithstanding the pendency of said approbation and ratification the Company shall nevertheless be bound hereunder.

Twenty-first.—The authority of Mr. Severo Mallet-Prevost, as lawful attorney in fact of the Trustees for the First Mortgage Bondholders, is attested by a general Power of Attorney conferred upon him by the Right Honourable Reginald Earle Baron Welby, Knight Commander of the Grand Cross of the Order of the Bath, resident of Allington, in the County of Lincoln, England ; Mr. Henry Parkman Sturgis, resident of Givons Grove, near Leatherhead, County of Surrey, England ; and Mr. James Brown Potter, resident of the City of New York, United States of America ; which persons executed said Power of Attorney in the City of London, capital of the United Kingdom of Great Britain, on the 5th of June of the current year of 1903, before the Notary Public of said City, Mr. John Dalton Venn, which Power of Attorney, in the Spanish language, together with the authentications annexed, was presented by said attorney in fact to the Fifth Civil Judge of this City, with a request that it be ordered to be protocolized in the office of the Notary Don Manuel Luis Sandoval, which protocolization was effected under date of July 29th last past. From the attested copy of said protocolization, the undersigned Notary copies the part which has relation hereto, and which is as follows :—

[NOTE.—Here follow Extracts from the Power of Attorney, executed in London.]

I, the Notary, certify that the above Extracts are a true copy of their originals, which are before me, and which originals, duly sealed and rubricated by me, the Notary, I return to the party interested.

The foregoing instrument having been read by me, the undersigned Notary Public, to the parties interested, and to the Witnesses, and explanations as to the value and effect of the contents of said instrument having been made by me, the parties hereto declared that they were in accord therewith, and thereupon they ratified it and signed it together with the Witnesses, Mr. Guillermo Aviles and Mr. Enrique Rios, residents of this City, both private clerks, the first unmarried, 27 years of age, residing at house No. 6, Florida Street, and the second married, 25 years of age, and residing at house No. 66, Fifth Street of Guerrero.

I further certify that this instrument was signed by the parties interested, and by the attesting Witnesses, at the same place, day,

month and year first above mentioned, and that the subscribing Notary Public authenticated the same in the City of Mexico on the 26th day of said August, upon which date the charge of the principal tax office was paid. JOHN E. EARLEY, M. AUZA, JAMES E. KITCHIN, M. DE MENDIZABAL, S. MALLET-PREVOST, GUILLERMO AVILES, ENRIQUE RIOS, AGUSTIN AVENDANO, Notary Public. Rubrics—a Seal which says AGUSTIN AVENDANO, Notary Public, No. 10, City of Mexico.

[NOTE.—Here follows a receipt showing the payment of the tax above mentioned.]