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INTERSTATE COMMERCE COMMISSION

TEXAS BANK & TRUST COMPANY OF DALLAS

AND

MISSOURI-KANSAS-TEXAS RAILROAD

COMPANY

CONDITIONAL SALES AGREEMENT

August 27, 1975

COVERING

ONE (1) TAMPER BALLAST EQUALIZER
NORDBERG TRAK LINER - MODEL B
NORDBERG LINE INDICATOR - MODEL A
MISCELLANEOUS USED RAIL EQUIPMENT

TEXAS BANK & TRUST COMPANY OF DALLAS

AND

MISSOURI-KANSAS-TEXAS RAILROAD

COMPANY

AGREEMENT AND CONSENT

August _____, 1975

THIS AGREEMENT, dated as of August 27, 1975, by and between MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a corporation organized and by virtue of the laws of the State of Delaware, with an office in the City of Dallas, Texas (hereinafter called "Railroad"), and TEXAS BANK & TRUST COMPANY OF DALLAS, a banking corporation, organized under and by virtue of the laws of the State of Texas, having its principal place of business in Dallas, Dallas County, Texas (hereinafter called "Bank"),

W I T N E S S E T H

In consideration of the mutual promises, covenants, and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. CONSTRUCTION AND SALE

(a) Railroad has heretofore ordered the construction of a certain Tamper Ballast Equalizer, Model No. BEB-17 from Tamper, Inc., of West Columbia, South Carolina ("Manufacturer"), and contemplates delivery and acceptance thereof at _____ Denison, Texas, on or before September 30, 1975, and upon acceptance will assume liability and risk of loss as hereinafter provided.

The purchase price therefor of \$52,927.00 will be advanced by Bank by its honoring of a sight draft drawn by Manufacturer on Bank in such amount, accompanied by the Manufacturer's Bill of Sale in favor of Texas Bank & Trust Company of Dallas, which draft shall be marked "Void if Detached from a Bill of Sale in Favor of Drawee."

Prior to Bank's honoring such Bill of Sale, Bank shall have received a Certificate of Acceptance from an authorized

official of Railroad certifying that Railroad has accepted delivery of the Tamper Ballast Equalizer, Model No. BEB-17 for and on behalf of Bank and that same complies fully and in all respects with the specifications and requirements of the Purchase Order given by Railroad to Manufacturer, and Bank has additionally received the usual warranties customarily afforded purchaser by manufacturer of this type of equipment, which Certificate of Acceptance shall constitute conclusive evidence that the article does in fact conform to the Purchase Order.

If such warranties need a specification as to "buyer or owner," same shall specify Texas Bank & Trust Company of Dallas and by its acceptance hereof, Manufacturer agrees that such warranties may be immediately assigned or endorsed by Bank in favor of Railroad without vitiating any of the terms thereof and that Railroad may be considered a first user with full rights to enforce all material particulars of such warranties in its name as though it were in fact the owner thereof.

(b) Railroad has ordered from Ozark Railway Supplies, of Springfield, Missouri ("Manufacturer"), the following:

- i) Nordberg Trak Liner, Model B,
Serial No. 201GR (used)
- ii) Nordberg Line Indicator, Model A,
Serial No. 852 (used,

for a total consideration of \$19,776.00, to be advanced by Bank when Bank shall honor the draft of Manufacturer in such amount, accompanied by the Manufacturer's Bill of Sale made out in favor of Texas Bank & Trust Company of Dallas; provided, however, that Bank shall not be required to honor such draft until it has received a similar Certificate of Acceptance as that described in (a) above.

(c) Railroad has heretofore leased from CIT Leasing Corp., a Delaware corporation, certain miscellaneous rail

equipment, including but not limited to, hydraulic spike pullers, surfacers, railroad drills, saws, trailers, tool and supply cars, power welders, and push cars, ^{as described in Exhibit A, attached hereto,} under various leases now or immediately hereafter expiring, which in the aggregate represent a purchase consideration of \$37,500.00, and Railroad has issued its Purchase Order to CIT Leasing Corp. in such amount for delivery on or about October 15, 1975, and Bank shall likewise honor a sight draft in such amount with a Bill of Sale in Bank's favor attached, accompanied by a release or releases of all lease obligations pertaining to the particular equipment covered by said Bill of Sale, which draft shall be drawn by CIT Leasing Corp. as seller, but only after receipt by Bank of appropriate Certificates of Acceptance by an authorized official of Railroad.

2. PURCHASE PRICE AND PAYMENT.

The total consideration for the items variously above delineated, is \$110,203.00, of which Railroad shall deliver to Bank \$20,203.00 in agreed portions at or prior to Bank's honoring of any of the drafts above set forth, and Railroad shall deliver the balance of \$90,000.00 (being the deferred purchase price) by paying to Bank in forty (40) consecutive monthly installments of \$2,250.00 each, commencing on September 26, 1975, thirty-nine (39) consecutive monthly installments of said amount thereafter, payable on the 26th day of each and every month, to and including December 26, 1978, together with interest monthly on all amounts of unpaid balance of principal at a rate which from day to day shall be the prime commercial borrowing rate of Bank plus three-quarters (3/4) of one percent (1%), as the same be established on the last business day of the preceding calendar month, but in no event to exceed a rate per annum of 12%, and in no event shall interest thereon be calculated at a rate less than 8% per annum, and nothing herein contained shall be construed to postpone the final maturity of this Conditional Sales Agreement beyond December 26, 1978, and all balances of principal and interest hereunder shall then be finally due and payable.

Railroad will pay interest on all amounts of principal and interest unpaid if the same become due hereunder at the highest rate permitted by applicable law but shall have the right to prepay all or any part of the deferred purchase price at any time without penalty.

In the event any of the transactions set forth in Item 1. above, fail to materialize, then the payment set forth herein shall be reduced proportionately.

3. TAXES.

Railroad will hold Bank harmless from all loss, cost or expense of any sales, use or occupation taxes incurred in the transfer of title to Bank or delivery of any equipment hereunder.

4. TITLE.

The Bills of Sale first above mentioned shall vest full legal title in and to the property in Texas Bank & Trust Company of Dallas until Railroad shall have made all of the payments and kept and performed all of the covenants in this Agreement contained, notwithstanding the fact of the permitted use and possession thereof by Railroad. Any and all replacement parts to any item of equipment conveyed to Bank shall be considered accessions thereto and will be the subject of all terms and conditions hereof.

Railroad, so long as it not be in default hereunder, shall be entitled to the use and possession thereof, subject to the terms and conditions herein contained.

Railroad will cause any item of equipment delivered hereunder having an original cost in excess of \$2,500.00, to be identified plainly, distinctly, and conspicuously, in letters not less than one (1) inch in height, as belonging to Texas Bank & Trust Company of Dallas, either through the use

of the expression "PROPERTY OF" or followed by the word "OWNER" and will not otherwise allow the name of any other person, association or corporation to be placed thereon in a manner which might be interpreted as a claim of ownership thereto; provided, however, that Railroad may separately mark or identify for inventory purposes, its residual interest therein.

When Bank has been fully paid and all of Railroad's covenants and agreements herein contained have been performed, then title shall pass to and vest in Railroad without further transfer or action on the part of Bank, except that Bank will, if requested, execute and deliver to Railroad a suitable Bill of Sale transferring title to such equipment to Railroad, free and clear of any lien or encumbrance or choses arising hereby and will execute such instruments in writing as may be necessary or appropriate to make clear such transfer of title.

5. INSURANCE.

Bank recognizes that the present deductible provisions contained in Railroad's policies of insurance against loss, damage or destruction of equipment, exceed the balance of the deferred purchase price hereunder, and in contemplation thereof, Bank agrees to look solely to Railroad as "self-insurer" thereof and herewith grants to Railroad the continuing right, in event of loss, damage or destruction to either:

- (i) Substitute equipment of like or similar nature of reasonably equal value to that lost, damaged or destroyed; or
- (ii) Increase its particular monthly payment next due by that amount representing the original cost thereof of the item or items lost, damaged or destroyed, less an amount equal to the percentage which that payment bears to the total number of payments due.

If, by reason of Bank's ownership of any item of equipment, a claim for liability against Bank shall arise while such equipment be in the possession of or used by Railroad,

then Railroad shall indemnify and save harmless Bank for all loss, cost and expense of such defense, if Bank be called upon to defend, and shall likewise fully indemnify Bank against any recoveries made by virtue of any such claim.

6. MAINTENANCE AND REPAIR.

Railroad will at all times maintain all items of equipment which are the subject hereof in good order and repair, reasonable wear and obsolescence excepted, at its sole risk, cost and expense.

7. COMPLIANCE WITH APPLICABLE LAWS.

Until the total purchase price hereunder provided to be paid by Railroad to Bank shall have been fully paid, Railroad will comply in all respects regarding the possession and use of such equipment in a manner to comply with all rules and regulations of any legislative, executive, administrative or judicial body having jurisdiction over such equipment or use thereof; provided, however, that Railroad may in good faith contest the application of any such rule or regulation which it, in good faith, considers as affecting the title to such equipment, and further provided that such contest thereof shall not otherwise cause a default hereunder.

8. REPORTS AND INSPECTIONS.

Railroad will furnish Bank, upon request but not more often than once in any year, an accurate inventory of the equipment covered hereby, which will state the condition thereof and such additional information as may be reasonably requested by Bank, and Bank shall have the continuing right at reasonable times, to inspect the equipment.

9. PROHIBITION AGAINST LIENS.

Railroad will satisfy and discharge all sums claimed by any parties which, if unpaid, might become a lien or charge on the equipment for which Bank as owner might otherwise be responsible, and if Railroad fails to do so, Bank may satisfy

such lien or charge and be secured by and under this Agreement, retaining title to all equipment hereunder until fully reimbursed therefor.

10. PROHIBITION AGAINST ASSIGNMENT.

Railroad will not sell, transfer or assign or otherwise dispose of its rights or duties hereunder nor transfer possession of any item of equipment which is the subject hereof without first obtaining the written consent of Bank.

11. DEFAULTS.

In the event that any one or more of the following events of default shall occur, to-wit:

(a) Railroad fails to pay in full when due, any installment of principal or of interest at the time and in the manner hereinbefore contracted to be paid, as provided herein; or

(b) Railroad fails to remedy within thirty (30) days a written notice from Bank of a particular default hereunder; or

(c) The bankruptcy or insolvency or assignment for the benefit of the creditors of Railroad, or the appointment of a receiver for Railroad or any of its properties (unless such receiver is discharged within 20 days following such appointment) if this agreement be covered by any such proceedings; or

(d) Railroad transfers or attempts to transfer its interest in or under this Agreement without the consent of Bank.

then Bank may declare the entire purchase price, together with accrued interest, immediately due and payable together with any past due interest at the rate hereinabove stated, and shall be entitled to judgment for such amount together with costs and expenses of securing the same, including reasonable attorneys' fees.

12. REMEDIES.

In addition to Bank's right to accelerate as above cited and receive judgment therefor, Bank may, at its election, re-possess itself of all items of equipment which are the subject hereof and sell the same at public or private sale, with or without advertisement, but subject to and in compliance with any requirements of the law then applicable to such sale, and from the proceeds thereof, less expenses, credit to all balances then due and owing such proceeds and be entitled to judgment for and execution upon any deficiency then remaining.

These remedies shall be in addition to any other remedy now or hereafter existing in law or in equity and may be exercised from time to time and simultaneously and as often and in such order as Bank may deem necessary, and the exercise of one shall in no instance be deemed a waiver of the right to exercise all or any other legal or equitable remedy.

No delay or omission by Bank in the exercise of any right or remedy shall impair the subsequent exercise thereof or be construed as a waiver of the right to use such remedy.

In the event that Bank shall, from the exercise of its right of public or private sale, realize a surplus over all the then remaining balances of principal and interest, attorneys' fees, cost and expenses, then such surplus shall be paid over to Railroad.

13. PAYMENT OF EXPENSES.

Railroad will pay all costs, taxes, charges and expenses incident to the preparation, execution, filing, or recording this Agreement if the same be required, including reasonable attorneys' fees of Bank.

14. NOTICES.

Any notices hereunder to Railroad shall be deemed properly served if delivered or mailed to the Railroad at 701 Commerce Street, Dallas, Texas 75203, and to Bank at its

premises at One Main Place, Dallas, Texas 75250, Attention:
Mr. William E. Dykes, ^{Asst.} Vice President.

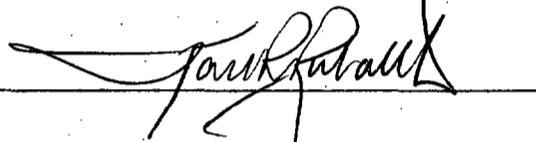
This Agreement may be executed in multiple counter-
parts, each of which shall be deemed an original.

The terms of this Agreement and all rights and obli-
gations hereunder shall be covered by the laws of the State
of Texas.

IN WITNESS WHEREOF, the undersigned have caused these
presents to be executed at Dallas, Dallas County, Texas, on
this the 27 day of August, 1975.

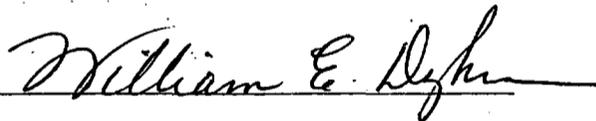
MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY

By



TEXAS BANK & TRUST COMPANY OF
DALLAS

By



The undersigned acknowledge receipt of notice of that certain Conditional Sales Agreement by and between MISSOURI-KANSAS-TEXAS RAILROAD COMPANY and TEXAS BANK & TRUST COMPANY OF DALLAS, dated the 27th day of August, 1975, and by their assents below, do not become parties to, but agree to accept their respective payments at the times and in the manner therein provided.

DATE:

TAMPER, INC.

By _____

DATE:

OZARK RAILWAY SUPPLIES

By _____

DATE:

CIT LEASING CORP.

By _____

E X H I B I T A

EQUIPMENT SOLD PURSUANT TO CONDITIONAL SALE AGREEMENT BETWEEN
TEXAS BANK & TRUST COMPANY OF DALLAS AND MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

UNIT NUMBER	DESCRIPTION	SERIAL NUMBER
RM-769	RMC Spike Master (GMC Diesel Engine #3-53)	5-337
" 780	Series F/Hydraulic Spike Puller	230947
" 779	Series F/Hydraulic Spike Puller	230948
" 807	Trak Surfacer	517
" 808	Trak Surfacer	518
" 809	Line Indicator	958
" 781	Power Rail Drill	3092
" 782	Power Rail Drill	3094
" 783	Power Rail Drill	3093
" 784	Power Rail Drill	3104
" 800	Rail-Roader Crane	12384
" 801	Rail-Roader Crane	12381
" 798	Electromatic Switch Tamper	1060117
" 799	Electromatic Switch Tamper	1060127
" 802	Spike Driver	1363407
" 803	Spike Driver	1363387
" 790	Portable Rail Saw	6215
" 791	Portable Rail Saw	6216
" 792	Portable Rail Saw	6219
" 793	Portable Rail Saw	6220
" 794	Portable Rail Saw	6213
" 795	Portable Rail Saw	6214
" 796	Portable Rail Saw	6217
" 797	Portable Rail Saw	6218
" 786	Automatic Feed Portable Rail Drill	RD-1327
" 787	Automatic Feed Portable Rail Drill	RD-1332
" 788	Automatic Feed Portable Rail Drill	RD-1329
" 789	Automatic Feed Portable Rail Drill	RD-1331
" 785	Air Compressor	125RB43313M
" 804	Spike Driver	828445
" 806	Heavy Duty Air Drill	356742
" 805	Heavy Duty Impact Tool	160773
" 777	Tie Crane w/GM Diesel Engine and Set Off w/grapple bucket	TC-123
" 778	Tie Crane w/GM Diesel Engine and Set Off w/grapple bucket	TC-124
" 810	Track-Trailer	A-191-1
" 819	Electric Welding Power Unit	A592844
" 820	Electric Welding Power Unit	A592846
" 821	Utility Grinder, B&S Engine	9188
" 822	Surf-Rail End Grinder, B&S Engine	682
" 823	Surf-Rail End Grinder, B&S Engine	683
" 815	Nolan Tool & Supply Car	None
" 816	Nolan Tool & Supply Car	None
" 817	Nolan Tool & Supply Car	None
" 818	Nolan Tool & Supply Car	None
" 826	Railroad Welder w/DC to AC Converter	None
" 827	Railroad Welder w/DC to AC Converter	None
" 824	Fairmont Push Car	231563
" 825	Fairmont Push Car	231564