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INTERSTATE COMMERCE COMMISSION

HULK PURCHASE AGREEMENT

between

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY,

Seller

and

THE BANK OF NEW YORK,

Buyer

Dated as of March 1, 1979

HULK PURCHASE AGREEMENT dated as of March 1, 1979 between ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, a Missouri corporation (the "Seller"), and THE BANK OF NEW YORK, a New York banking corporation (the "Owner").

RECITALS

A. Reference is made to the Participation Agreement (the "Participation Agreement") dated as of the date hereof among St. Louis-San Francisco Railway Company, the Owner, La Salle National Bank (the "Agent"), and the Lender referred to therein. Pursuant to the Participation Agreement, the Owner, the Agent and St. Louis-San Francisco Railway Company (in its capacity as the "Builder") have entered into a Conditional Sale and Reconstruction Agreement (the "Conditional Sale Agreement") dated as of the date hereof, and pursuant to the Conditional Sale Agreement the Builder will, among other things, reconstruct 40 units of used racks for the transportation of automobiles and other equipment on railroad rolling stock (collectively, the "Hulks") for delivery to the Owner. A list of the Hulks, identified by the serial numbers of the units of railroad rolling stock to which the Hulks are attached prior to reconstruction, is set forth in Schedule I hereto.

B. The Seller owns and desires to sell, and the Owner desires to purchase, each unit of the Hulks for the purchase price set forth with respect to such unit in Schedule I hereto (the "Hulk Purchase Price").

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

SECTION 1. TRANSFER OF TITLE TO AND DELIVERY OF HULKS.

The Seller will, from time to time, prior to delivery of any unit of the Hulks to the Builder for reconstruction as provided in the Conditional Sale Agreement, deliver to the Owner a bill of sale transferring title to such unit and warranting that at the date of such bill of sale the Seller had legal title to such unit and good and lawful right to sell the same and that title to such unit was free of any mortgage, pledge, lien, charge, retention of title, security interest, claim or other encumbrances of any nature whatsoever. On or after the date of such bill of sale, the Seller will deliver such unit to an authorized

representative of the Owner at such point or points within the United States of America as shall be specified by the Seller. The sale and delivery of the Hulks pursuant to this Agreement shall commence as soon as practicable and shall be completed on or before such date as shall permit the completion of reconstruction of each unit of the Hulks pursuant to the Conditional Sale Agreement.

SECTION 2. SITUATIONS IN WHICH OWNER NEED NOT ACCEPT HULKS.

Notwithstanding anything to the contrary contained herein, the Owner shall have no obligation to accept (or pay for) any unit of the Hulks which is tendered for delivery hereunder if

(a) any Default or Event of Default (as defined in the Conditional Sale Agreement) shall have occurred, or

(b) the Owner shall have delivered written notice to the Seller that any of the conditions contained in section 4 of the Participation Agreement shall not have been satisfied (or waived) at the time therein provided, or

(c) the sum of

(i) the aggregate Hulk Purchase Price for the Hulks theretofore delivered and accepted hereunder plus the aggregate Reconstruction Cost (as defined in the Conditional Sale Agreement) therefor and

(ii) the Hulk Purchase Price of the unit being tendered for delivery hereunder plus the Reconstruction Cost of such unit under the Conditional Sale Agreement

would exceed \$888,800.

SECTION 3. CONDITIONS PRECEDENT TO PAYMENT OF HULK PURCHASE PRICE.

Subject to the terms and conditions of this Agreement, the Owner, on the dates specified in section 4, will

pay to the Seller the Hulk Purchase Price of each unit of the Hulks delivered to the Owner hereunder upon receipt by the Owner of the following documents and instruments:

(a) the bill of sale with respect to such unit as specified in section 1 and setting forth the serial number, place of delivery and description of such unit;

(b) an invoice, dated the date of such bill of sale and addressed to the Owner, from the Seller for the Hulk Purchase Price for such unit;

(c) a certificate signed by the Owner's authorized representative stating that such unit has been delivered to and accepted on behalf of the Owner;

(d) a written opinion of Donald E. Engle, Esq., Vice President and General Counsel of the Seller, dated the date of such bill of sale, addressed to the Owner and stating that such bill of sale is valid and effective to transfer the Seller's title to such unit to the Owner and that, upon delivery of such bill of sale, title to such unit is vested in the Owner free of all Liens (as defined in the Conditional Sale Agreement) except for the interest of the Agent in such unit under the Transfer Agreement, dated as of the date hereof, between the Owner and the Agent, and the interest of the Lessee under the Lease (as such terms are defined in the Participation Agreement); and

(e) an Officers' Certificate from the Lessee, dated the date of such bill of sale, stating that no Default or Event of Default (as defined in the Lease) under the Lease has occurred and is continuing as of such date.

SECTION 4. TIME OF PAYMENT OF HULK PURCHASE PRICE.

Subject only to the conditions set forth in this Agreement, the Owner will pay to the Seller the Hulk Purchase Price of each unit of the Hulks delivered and accepted under this Agreement on the earlier of (a) October 31, 1979 and (b) the date of delivery of the units to the Builder for reconstruction.

SECTION 5. ASSIGNMENT OF RIGHTS BY OWNER.

The Owner may assign and/or transfer any or all of its rights under this Agreement and/or any or all of its rights to possession of any of the units of the Hulks to the Agent without the Agent assuming any of the obligations of the Owner hereunder, and all of the rights of the Owner hereunder shall inure to the benefit of the Agent. The Owner and the Seller acknowledge that such assignment or transfer is contemplated.

SECTION 6. RISK OF LOSS; INDEMNIFICATION.

Notwithstanding the delivery of any bill of sale hereunder, the Seller agrees that all responsibility with respect to any unit of the Hulks covered by such bill of sale, and the use and operation and risk of loss of such unit, shall remain with the Seller until such unit is delivered to and accepted by the authorized representative of the Owner, and the Seller agrees to indemnify and hold the Owner (and any assignee or transferee of the Owner) harmless from any claim made against the Owner solely by reason of the transfer of title to such unit or with respect to the validity of such title, free from all Liens other than those of the Owner and the Lessee, at the time of such delivery and acceptance. Upon such delivery and acceptance, all responsibility and risk of loss with respect to such unit shall pass to the Owner.

SECTION 7. FAILURE TO DELIVER HULKS.

In the event that any unit of the Hulks is not delivered as provided herein to the Owner on or after the date of any bill of sale with respect thereto, the Owner will assign to the Seller, without warranty of any kind, whatever right, title and interest the Owner may then have in such unit and such unit shall thereafter be excluded from the provisions of this Agreement.

SECTION 8. SELLER'S WARRANTIES.

The Seller hereby represents and warrants to the Owner and its successors and assigns that this Agreement has been duly authorized, executed and delivered by the Seller for a valid consideration.

SECTION 9. RELEASE OF LIENS ON HULKS.

The Seller hereby covenants and agrees with the Owner that, not later than the date of payment for any unit of the Hulks, the Seller will discharge in full all obligations, if any, securing encumbrances with respect to such unit. Without limitation of any other rights or actions which the Owner may enforce against the Seller due to a breach by the Seller of its agreement to discharge such obligations, in the event any such obligation has not been satisfied prior to payment for any unit of the Hulks by the Owner, the Seller hereby agrees that the Owner may, in lieu of making payments for any units of the Hulks then to be made to the Seller hereunder, pay all or any portion of such payments to one or more holders of obligations secured by such encumbrances to the extent necessary to satisfy such obligations in full and to remove such encumbrances.

SECTION 10. MISCELLANEOUS.

10.1. Waivers; Modifications. No term or provision of this Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought; no such instrument shall be effective unless a signed copy thereof shall have been delivered to the Owner, the Seller and the Agent and the Agent shall have consented thereto in writing.

10.2. Captions; References. The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. References herein to sections and subdivisions without reference to the document in which they are contained are references to this Agreement.

10.3. Execution in Counterparts. This Agreement may be executed by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Each counterpart may consist of a number of copies each signed by less than all, but together signed by all, the parties hereto.

10.4. Governing Law. This Agreement is being made and delivered in, and shall be governed by and con-

strued in accordance with the laws of, the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, in its capacity as Seller

[Seal]

Attest:

J. M. Butler
(Title)
Asst. Secretary

By *Donald E. Engle*
(Title)
Vice President

THE BANK OF NEW YORK

[Seal]

Attest:

James S. Muff
(Title)
Deputy Secretary

By *W. J. Byrnes*
(Title)
Vice President

Receipt of an executed counterpart of this Agreement is hereby acknowledged as of the day and year first above written.

LA SALLE NATIONAL BANK, Agent

By *[Signature]*
(Title)
VICE PRESIDENT

STATE OF MISSOURI)
) ss.:
CITY OF ST. LOUIS)

On this *19th* day of March 1979, before me personally appeared **DONALD F. ENGLE**, to me personally known, who, being by me duly sworn, says that he is Vice President of St. Louis-San Francisco Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

My Commission Expires August 2, 1981

Mary L. Allhoff
Notary Public *Mary L. Allhoff*

[NOTARIAL SEAL]

Commissioned within and for the County of St. Louis, Missouri, which adjoins City of St. Louis, Missouri, where this act was performed.

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

On the *16th* day of March, in the year 1979, before me personally came *David D. Hargrove* to me known, who being by me duly sworn, did depose and say that he resides at *1251 Gardley, Pa.* that he is *Vice President* of The Bank of New York, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Debra A. McIntosh
Notary Public

[NOTARIAL SEAL]

DEBRA A. McINTOSH
Notary Public, State of New York
No. 41-4654099
Qualified in Queens County
Commission Expires *March 30, 1979*

SCHEDULE I

Hulks

<u>Quantity</u>	<u>Description</u>	<u>Serial Numbers*</u>	<u>Hulk Purchase Price (per unit)</u>	<u>Total Hulk Purchase Price</u>
40	Used Racks	TTRX 905586 587 588 589 590 908432 435 437 438 444 445 460 461 467 479 494 496 497 502 505 506 515 516 520 526 527 TTKX 905486 637 641 642 647 651 680 683 684 687 728 757 758 864	\$2,500	\$100,000

* The serial numbers set forth in this table are not the serial numbers of the Hulks themselves. They are the serial numbers of the flat cars to which such Hulks are attached prior to reconstruction.