



MERCHANTS DESPATCH TRANSPORTATION CORPORATION

August 22, 1980

0-310A062

No. 12393
 NOV 5 1980 RECORDATION NO. Filed 1425
 Date..... NOV 5 1980 -2 45 PM
 Fee \$ 50
 INTERSTATE COMMERCE COMMISSION
 ICC Washington, D. C.

Office of the Secretary
 Interstate Commerce Commission
 Washington, D. C. 20423

Dear Sir:

Enclosed please find an original and two copies for the Commission's file of a Conditional Sale and Security Agreement between Merchants Despatch Transportation Corp. (vendor) and the Albany Port Railroad Corp. (purchaser), Port of Albany, Albany, N. Y. 12207.

A description of the Rerailer equipment is as follows:

	EACH	TOTAL
1 Oil Hydraulic Pump Unit, Item #17, equipped with Wisconsin 4-cycle Engine and Electric Starter	\$3,739.00	\$ 3,739.00
1 Control Panel w/Frame, Item #16	3,723.00	3,723.00
1 Auxiliary Hand Pump, Item #24, 25	2,105.00	2,105.00
2 Oil Hydraulic Lifting Jacks 132/66 Tons Capacity, Item #3	2,878.00	5,756.00
1 Oil Hydraulic Multi-Stage Jack 132 Tons Capacity, Item #7	6,087.00	6,087.00
1 Rerailing Bridge 7.38' long, Item #13	1,821.00	1,821.00
2 Roller Carriages, Item #15	1,211.00	2,422.00
2 Oil Hydraulic Displacing Jacks 11/6.6 Tons Capacity, Item #11	886.00	1,772.00
2 Steel Counter Supports, Item #14	178.00	356.00
1 Horizontal Jack Support Frame, Item #20	508.00	508.00
5 Pairs High Pressure Liquid Hoses 32.81' long, Item #19	535.00	2,675.00
6 Connecting Pieces w/2 Gaskets each, Item #18	33.00	198.00
		31,162.00
	7% Duty	2,181.00
	TOTAL	\$33,343.00

Please return the recorded original to my attention. If you have any questions, feel free to call me at (215) 825-5900.

Yours very truly,

Philip W. Allen
 Assistant Controller

PWA/mk

Enclosures

I hereby certify to Merchants Despatch Transportation Corporation that no mortgagee, liens or other encumbrances currently exist which in any way subordinate the lien held by Merchants on the re-railing equipment described on the Financing Statement filed with the Clerk of Albany County this date, the 21st day of July 1980.

ALBANY PORT RAILROAD CORPORATION

BY Stewart

Interstate Commerce Commission
Washington, D.C. 20423

11/7/80

OFFICE OF THE SECRETARY

Philip W. Allen
Assist. Controller
Merchant Despatch Transp. Corp.
1100 Ridge Pike
Conshohocken, PA. 19428

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **11/5/80** at **2:45pm**, and assigned recordation number(s). **12393**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

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INTERSTATE COMMERCE COMMISSION

MERCHANTS DESPATCH TRANSPORTATION CORPORATION
AND ALBANY PORT RAILROAD CORPORATION
CONDITIONAL SALE AND SECURITY AGREEMENT

This Agreement is entered into as of April 1, 1980 by Merchants Despatch Transportation Corporation ("MDT") and Albany Port Railroad Corporation, a Delaware corporation ("Albany") with principal place of business at Albany , New York.

Background

WHEREAS, Albany desires to purchase and MDT is willing to sell to Albany a certain unit of equipment known as a Hoesch Re-Railer, as more fully described in MDT Purchase Order Number 761-9, copy attached hereto as Exhibit A, (hereinafter called the "Equipment"); and

WHEREAS, MDT ordered the Equipment for delivery by the manufacturer to Albany pursuant to an oral agreement of lease confirmed by MDT letter dated October 8, 1979, copy attached hereto as Exhibit B, enclosing a schedule of payments hereto attached as Exhibit B-1; and

WHEREAS, Albany has accepted delivery of the Equipment, acknowledges that it is in good condition and meets all specifications of Albany and Albany is using the Equipment and finds it satisfactory in all respects;

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. MDT hereby sells, transfers and assigns to Albany all right, title and interest of MDT in and to the Equipment, free and clear of liens, security interests, charges or encumbrances created or incurred by MDT, to have and to hold the same forever subject only to payment of the purchase price and to compliance with the other terms and conditions of this Agreement.

2. Albany hereby purchases the Equipment from MDT, acknowledges receipt thereof in satisfactory condition and agrees to pay to MDT as purchase price the sum of \$33,343.00 payable with interest at the rate of 14 % per annum in accordance with the schedule of payments hereto attached as Exhibit B-1.

3. MDT acknowledges receipt of rental payments from Albany in the amount of \$7038.00 , for use of the Equipment and hereby agrees to credit such payments toward the purchase price of the Equipment due hereunder in accordance with Exhibit B-1.

4. Albany hereby grants to MDT a first priority purchase money security interest in the Equipment and any proceeds thereof, warrants that the Equipment is free and clear of any other lien, security interest, charge or encumbrance created, incurred or suffered to exist by Albany and agrees to hold the Equipment, free and clear of any security interest ranking prior to or pari passu with the security interest of MDT, as collateral security for payment of the purchase price by Albany to MDT.

5. Albany will defend the Equipment against all claims and demands of anyone claiming by, through or under Albany, will not permit the Equipment to be levied upon by any legal process and, without the prior written consent of MDT, will not sell, exchange or otherwise dispose of the Equipment or any of Albany's interest therein.

6. Albany will maintain the Equipment in good working condition, will pay the cost of maintenance and repair thereof, and will not permit anything to be done to impair the value thereof.

7. Albany will insure the Equipment against loss or damage from fire, theft and such other casualty as such equipment is normally insured against, in the full amount of its market value, with such insurance carrier as may be satisfactory to MDT. The policy will be written or endorsed for the benefit of Albany and MDT as their interests may appear and a certificate evidencing such insurance shall be furnished to MDT forthwith. MDT is hereby appointed attorney-in-fact for Albany to endorse any draft or check which may be payable to Albany or to MDT and Albany jointly for collection of unearned premiums or the proceeds of such insurance. Any such amounts received shall be applied by MDT to payments then due or to become due on the purchase price and any balance in excess of the purchase price plus expense of MDT in collecting such proceeds shall be paid to Albany.

8. Albany will not permit the Equipment to be removed from the State of New York without the prior written consent of MDT and will permit MDT to inspect the Equipment at any reasonable time.

9. Albany will sign and pay the costs of filing any financing, continuation or termination statements requested by MDT with respect to its security interest in the Equipment and hereby appoints MDT its attorney-in-fact to do at Albany's expense all acts and things which MDT may deem necessary to perfect and continue perfected its security interest and to protect the Equipment.

10. Each of the following shall constitute an event of default hereunder:

- (a) failure of Albany to make any payment when due hereunder;
- (b) failure of Albany to perform any other obligation or covenant or to comply with any condition herein after ten (10) days' written notice of such failure from MDT;
- (c) any warranty of Albany herein should prove untrue; and
- (d) any proceedings are instituted by or against Albany under any bankruptcy, insolvency or reorganization laws.

11. Upon occurrence of any event of default:

- (a) the entire unpaid balance of the purchase price shall, at the option of MDT, become due and payable immediately upon written notice by MDT to Albany, together with interest at the rate of one percent (1%) per month, until paid, and MDT shall have all the rights and remedies of a secured party under the Uniform Commercial Code and of a creditor under any other applicable laws, all of which rights and remedies shall, to the full extent permitted by law, be cumulative;
- (b) MDT may require Albany, at its expense, to make the Equipment available to MDT at a place to be designated by MDT which is reasonably convenient to both;
- (c) any notice of sale, disposition or other intended action by MDT sent to Albany at least five (5) days prior to such action at its address listed herein or other principal place of business, given to MDT in writing by Albany shall constitute reasonable notice to Albany; and
- (d) Albany will pay as part of the debt hereby secured all amounts, including attorneys' fees and disbursements, paid by MDT in taking possession

of, disposing of or preserving the Equipment after any event of default, including amounts required to satisfy liens, to maintain insurance on and to repair or keep the Equipment in good working condition, together with interest at the rate of one percent (1%) per month thereon.

12. No waiver of any event of default shall be a waiver of any subsequent default. Albany agrees that MDT or its nominee may become the purchaser of the Equipment at any sale upon an event of default.

13. All rights and privileges of MDT shall inure to the benefit of its successors and assigns and all obligations of Albany hereunder shall be binding upon its successors and assigns.

Executed this 19th day of August, 1980 to take effect as of the day and year first above written.

ALBANY PORT RAILROAD CORPORATION

ATTEST:

M. Maxwell
SECRETARY

By *J. H. Lontz*
PRESIDENT

MERCHANTS DESPATCH TRANSPORTATION CORPORATION

ATTEST:

M. Maxwell
SECRETARY

By *D. S. McQuill*
PRESIDENT

Sworn to before me this 19th day of August, 1980.

Stanley J. Turner
Notary Public

State of Pennsylvania

County of Montgomery ss

On this 10th day of September, 1980, before me personally appeared HERBERT S. MC DONALD, to me personally known, who being by me duly sworn, says that he is the PRESIDENT, of MERCHANTS DESPATCH TRANSPORTATION CORP. that the seal 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.

CLAIRE ALESSANDRONI, Notary Public
Conshohocken Boro, Montgomery Co.
My Commission Expires Dec. 20, 1982

Claire Alessandroni

Exhibit A

DESCRIPTION: HOESCH RE - RAILER

SPECIFICATION: September 6, 1979 quotation by Hoesch

MDT PURCHASE ORDER NO.: 761 - 9

PRICE: \$33,343.00

Exhibit B

MDT **MERCHANTS DESPATCH TRANSPORTATION CORPORATION**

October 8, 1979

Mr. Joseph Cassick
Albany Port Railroad Corp.
40 Beaver Street
Albany, N. Y. 12207

Dear Mr. Cassick:

Enclosed is Merchants' invoice for the first quarterly lease payment for the Hoesch Re-Railer. We plan to invoice the Albany Port the first of each calendar quarter with payment due within 15 days.

The lease is currently being drawn up and will be forwarded to you as soon as possible.

The enclosed payment schedule is for your reference and will be attached as a supporting schedule to the lease. Final payment will be \$1.00 on October 1, 1984. In order to exercise the purchase option, the principal balance as shown on the schedule must be received by us on the first business day of a calendar quarter.

Please sign the enclosed invoice indicating that all equipment was delivered, and in good condition, and return it to us along with a copy of the delivery receipt you will receive from the trucking company.

If you have any questions, feel free to call me or Duane Mate.

Very truly yours,



Philip W. Allen
Assistant Controller

PWA/mk

Enclosure

bc: D. P. Mate
A. M. Baldwin

Exhibit B-1

	<u>PAYMENT</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>	<u>PRINCIPAL BALANCE</u>
				\$33,343.00
1.	\$2,346.00	\$1,178.99	\$1,167.01	32,164.01
2.	"	1,220.26	1,125.74	30,943.75
3.	"	1,262.97	1,083.03	29,680.78
4.	"	1,307.18	1,038.82	28,373.60
5.	"	1,352.93	993.07	27,020.67
6.	"	1,400.29	945.71	25,620.38
7.	"	1,449.30	896.70	24,171.08
8.	"	1,500.02	845.98	22,671.06
9.	"	1,552.53	793.47	21,118.53
10.	"	1,606.87	739.13	19,511.66
11.	"	1,663.11	682.89	17,848.55
12.	"	1,721.32	624.68	16,127.23
13.	"	1,781.57	564.43	14,345.66
14.	"	1,843.92	502.08	12,501.74
15.	"	1,908.46	437.54	10,593.28
16.	"	1,975.26	370.74	8,618.02
17.	"	2,044.40	301.60	6,573.62
18.	"	2,115.95	230.05	4,457.67
19.	"	2,190.01	155.99	2,267.66
20.	"	2,266.66	79.34	1.00
FINAL	<u>1.00</u>	<u>1.00</u>	<u>-</u>	<u>-</u>
TOTAL	\$46,921.00	\$33,343.00	\$13,578.00	