

NOTE: This contract contains confidential information including wire transfer instructions. We ask that this document DOES NOT get emailed, please sign only through DocuSign.

RAILROAD EQUIPMENT SALES CONTRACT

THIS RAILROAD EQUIPMENT SALES CONTRACT (“Contract”) is entered into as of June 4th, 2021 by and between New Orleans Public Belt Railroad Corporation (hereinafter “Seller”) and Motive Power Inc. (hereinafter “Buyer”).

RECITALS

- A. Seller owns certain railroad equipment that it desires to sell to Buyer, and Buyer desires to purchase certain railroad equipment owned by Seller, see EXHIBIT “A”.
- B. Buyer acknowledges that the railroad equipment is being sold “as is” and that Seller makes no representations or warranties as to the quality and/or condition of said railroad equipment, including but not limited to any warranties against redhibitory defects, and Buyer expressly waives the benefit of any and all such warranties and not even for the return of the purchase price or any part thereof, unless otherwise expressly set forth herein.

AGREEMENT

1. **Buyer to Sign Contract.** Buyer acknowledges that it has thoroughly read and reviewed this Contract and understands the terms set forth herein. Buyer agrees to sign and return this Contract to Ozark Mountain Railcar (hereinafter “OMR”) on or before June 9th 2021.

2. **Items Purchased.** Seller agrees to sell, and Buyer agrees to Buy, the railroad equipment and/or items (“Goods”) listed on Exhibit “A “attached hereto, and in accordance with the terms and conditions set forth herein (the “Transaction”).

3. **Special Conditions.** The following special conditions, if any, apply to this Contract:

- a. The Goods are to be sold and delivered hereunder on an “as is, where is” basis with no representation or warranty of any kind as to its condition and the Buyer shall accept delivery of the Goods in such condition. Seller does not make and has not made any representation or warranty whatsoever to Buyer, express or implied, as to the value, quality, quantity, condition, merchantability, fitness for a particular purpose, suitability, classification, certificates, design, usability, salability, obsolescence, working order or compliance with law of any of the railroad equipment acquired herewith, nor shall Seller be responsible for any damages (direct, indirect or consequential) of any nature whatsoever following delivery and transfer of title to any such railroad equipment. With respect to the contemplated transactions, Buyer hereby (i) expressly waives all rights in redhibition and for reduction of the purchase price pursuant to Louisiana Civil Code articles 2520 *et seq.* and the warranty imposed by Louisiana Civil Code

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article 2475 and (ii) releases Seller from any liability for redhibitory or other latent defects or vices under Louisiana Civil Code articles 2520 through 2548 and any and all other warranties whatsoever under the laws of the State of Louisiana, the United States of America or any other law, with no recourse to Seller for any reason whatsoever. The aforesaid wavier shall not apply to any transferable warranties from vendors assigned to Buyer at Closing.

Buyer further acknowledges that it has not relied upon any oral or written representation of Seller or Seller's representatives not otherwise set forth in this paragraph concerning the condition, fitness, merchantability, design or fitness for any intended use or purpose of the acquired railroad equipment.

b. Buyer is responsible for all transportation costs

4. Delivery. Time is of the essence in the performance of this Contract. Seller will make the Goods available to Buyer immediately after full payment has been received by Seller. After payment has been completed, a Bill of Sale will be executed between Buyer and Seller, and the Transaction will be complete.

5. Seller Representations. The Seller makes the following representations and warranties to the Buyer, all of which shall survive the Closing:

- a. The Seller is the owner of and has the right to sell the Goods, and the Goods are free and clear of all debts, liens, security interests and encumbrances
- b. Seller has to its knowledge complied with all laws, rules and regulations relating to the Goods; and
- c. Seller makes no representations or warranties as to the quality and/or condition of the Goods, and Buyer understands that the Goods are being sold as is.

6. Payment. Buyer has agreed to pay seller the total price indicated on Exhibit "A" attached hereto. Payment schedule is as follows:

- a. Payment to be made in full on or before June 9th 2021. All payments are to be made via wire transfer. **Wire instructions are included the last page of this document.**

7. Failure to Timely Pay is a Breach of the Contract. In addition to any other right or remedy provided by law, if Buyer fails to pay for the Goods when due, the Seller, at its option, may treat such failure to pay as a material breach of this Contract, and may cancel this Contract and/or seek other available legal remedies.

8. Default. The occurrence of any one of the following shall constitute a material default under this Contract:

- a. Failure to make the required payment when due.
- b. The insolvency or bankruptcy of either party.

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- c. The subjection of the Goods to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d. The failure to make available or deliver the Goods in the time and manner provided for under this Contract.

9. Remedies in the Event Default Occurs. In addition to any and all other rights available according to law, if either party defaults by failing to substantially perform any material provision, term or condition of this Contract (including without limitation the failure to make a monetary payment when due), the non-defaulting party may elect to terminate this Contract if such default is not cured within three (3) days of providing written notice of the default to the defaulting party. The notice shall describe with sufficient detail the nature of the default.

10. Assignment. Neither party may assign or transfer this Contract without prior written consent of the other party, which consent shall not be unreasonably withheld.

11. Confidential Information. Buyer acknowledges that the Seller is subject to the Louisiana Public Records Law and Open Meetings Law (collectively the “Public Disclosure Laws”). Except as provided by, and in accordance with, all applicable laws, including the Public Disclosure Laws, or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Contract or the parties, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either party to any person other than an affiliate of a party and the respective officers, employees, and attorneys of those affiliates, without the prior written approval of the other party.

12. Notices. All notices required or permitted under this Contract shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, and addressed as follows:


If for Seller: New Orleans Public Belt Railroad Corporation
Attn: General Manager
4822 Tchoupitoulas Street
New Orleans, Louisiana 70115

If for Buyer: Motive Power Inc.
4600 S. Apple St
Boise, ID 83716

13. Amendment. This Contract may be modified or amended if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written and enforced as so limited.

Buyer's Initials 

Seller's Initials 

15. Entire Agreement. This Contract constitutes the entire agreement between the parties, and no oral agreements or statements will be effective or binding on either party. The provisions of this Contract can only be amended or changed by a written document signed by both Buyer and Seller. This Contract supersedes any prior written or oral agreements that may exist between the parties.

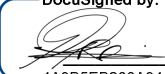
16. Waiver of Contractual Right. The failure of either party to enforce any provision of this Contract shall not be construed as a waiver of limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

17. Construction and Attorney's Fees. This Contract shall be construed under the law of the state of Louisiana. Jurisdiction and venue for any litigation related to this Contract shall be exclusive to the Civil District Court, Parish of Orleans or the United States District Court for the Eastern District of Louisiana. In the event either party has to bring suit on account of the other party's breach of this Contract, the non-breaching party shall be entitled to reimbursement for its reasonable attorney's fees and costs incurred therein. The parties, by entering into this Contract, agree to waive their right to a jury trial in the event it is necessary to file suit.

18. Ozark Mountain Railcar's Liability. It is specifically understood and agreed to by both parties that Missouri Railroad Group, LLC, d/b/a Ozark Mountain Railcar, has made no representations whatsoever based on its knowledge of the Railroad Rolling Stock and Equipment/Parts and has made no investigation to verify any representations made by either Buyer or Seller. Further, it is agreed by both Buyer and Seller to waive any and all claims they may have against OMR as a result of the action or this Contract.

Buyer: Motive Power, Inc


Seller: New Orleans Public Belt Railroad Corporation


DocuSigned by:  6/4/2021 | 10:33 AM
4A3B5EB200A341E
Printed Name: Gary Grace

DocuSigned by:  6/4/2021 | 12:05 PM
Printed Name: Brandy D. Christian

EXHIBIT A

Item Description	Quantity	Unit Price	Total Price
Railroad Locomotive known as MP1500D #1505	1	\$155,000.00	\$155,000.00

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Seller's Initials 

This form contains confidential financial information and should only be shared with trusted and known individuals/businesses.

Ozark Mountain Railcar

Wire Transfer Instructions

Note: Due to the ownership structure of our bank, our wire instructions may differ from other banks. If the sending bank has any questions, please contact Central Bank's wire desk at 573-634-1160.

INCOMING WIRE INSTRUCTIONS

Receiving Bank: 086500634
Central Bank
Jefferson City, MO, USA

Beneficiary Bank: 081518375 Central Bank of Branson
Beneficiary: **081518375 Acct# 124124603**
Missouri Rail Group L.L.C d/b/a Ozark Mountain Railcar
315 Mincy Lane, Kirbyville, MO 65679

Additional Information: Please reference Buyers' name and item being purchased as it appears on the sales contract.

INTERNATIONAL INCOMING WIRE INSTRUCTIONS

SWIFT CODE: CTUSUS44

Bank: Central Bank
238 Madison Jefferson City, MO, USA

Beneficiary: **081518375 Acct# 124124603**
Missouri Rail Group L.L.C d/b/a Ozark Mountain Railcar
315 Mincy Lane, Kirbyville, MO 65679

Additional Information: Please reference Buyers' name and item being purchased as it appears on the sales contract.

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Seller's Initials  BJ