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KATHLEEN S. DOWNS
JOEL JAY FEINBERG
THEODORE E. KING, JR.
LEE A. SHELLER

March 30, 1979

RECORDATION NO. 9425-L FILED 1425
MAR 30 1979 -10 45 AM
INTERSTATE COMMERCE COMMISSION

No. 9-088A272
Date APR 20 1979
Fee $100.00
Washington, D. C.

Interstate Commerce Commission
Washington, D. C. 20423

Dear Sirs:

Pursuant to the provisions of Section 11303 of the Interstate Commerce Act, as revised and recodified by Public Law 95-473, and the regulations of the Interstate Commerce Commission promulgated thereunder, we are transmitting for filing and recording originals or executed counterparts of the following sets of documents:

1. (a) Conditional Sale Agreement dated as of March 30, 1979 between Whittaker Corporation (Berwick Forge & Fabricating Division), Vendor, and National Railway Utilization Corporation, Vendee.

   (b) Agreement and Assignment of Conditional Sale Agreement dated as of March 30, 1979, by Whittaker Corporation (Berwick Forge & Fabricating Division), Assignor, to The First National Bank of Maryland and Sun Life Insurance Company of America, Assignees, together with acknowledgment by National Railway Utilization Corporation.

The names and addresses of the parties to the transactions are listed below:

Whittaker Corporation (Berwick Forge & Fabricating Division) (Vendor and Assignor)
P. O. Box 188
Berwick Pennsylvania 18603

Counterparts
Mr. Baker

National Railway Utilization Corporation
(Vendee)
1100 Centre Square
1500 Market Street
Philadelphia, Pennsylvania 19102

The First National Bank of Maryland
(Assignee)
25 South Charles Street
Baltimore, Maryland 21201

Sun Life Insurance Company of America
(Assignee)
Sun Life Building
20 South Charles Street
Baltimore, Maryland 21201

A general description of the equipment covered by the Conditional Sale Agreement listed as document 1(a) is contained in Exhibit A attached to this letter.

The above-identified documents have not heretofore been recorded with the Interstate Commerce Commission; however, they relate, and shall be filed as a part of, a Conditional Sale Agreement Purchase Commitment Agreement dated as of May 31, 1978 which was filed with the Interstate Commerce Commission on June 5, 1978 (Recordation No. 9425). As with the Conditional Sale Purchase Commitment Agreement, the documents should be filed under National Railway Utilization Corporation and cross-referenced to Pickens Railroad Company.

Please accept for recordation two counterparts of each document, stamp the remaining counterparts with the appropriate recordation number and return them with your fee receipt and letter confirming receipt to my delivering messenger.

The $100 filing and recordation fee for these documents is submitted herewith.

Very truly yours,

W. Gar Richlin

W. Gar Richlin

WGR:fja
Encl.

Exhibit A

Type	Builder's Specifications	Quantity	Road Numbers (Both Inclusive)	Price Per Unit	Total Base Price	Original Conditional Sale Indebtedness	Estimated Time and Place of Delivery
70 ton, 50'6" Class XM boxcars	C 78-1016-1 (October 16, 1978)	40	NSL 150695 - 150734	$38,228	$1,529,120	$1,452,670	March 30, 1979 at Renovo, Pennsylvania

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

W. Gar Richlin
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Dear Mr. Richlin:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on March 30, 1979 at 10:45 AM, and assigned recordation number(s) 9425-K and 9425-L

Sincerely Yours,

H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

RECORDATION NO. 9435-L
MAR 30 1979 -10 45 AM
INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT (the "Assignment") dated as of March 30, 1979 between WHITTAKER CORPORATION (Berwick Forge & Fabricating Division) (the "Builder") and THE FIRST NATIONAL BANK OF MARYLAND, acting both as principal in its individual capacity and as agent for Sun Life Insurance Company of America, all as provided in a Conditional Sale Agreement Purchase Commitment Agreement (the "Purchase Agreement") and related Participation Agreement (the "Participation Agreement"), each dated May 31, 1978, The First National Bank of Maryland, so acting, being hereinafter called the "Assignee".

WHEREAS, the Builder and National Railway Utilization Corporation (the "Vendee") have entered into a Conditional Sale Agreement dated as of the date hereof (the "Conditional Sale Agreement"), covering the construction, sale and delivery by the Builder on the conditions therein set forth, and the purchase by the Vendee, of the railroad equipment described in Exhibit A to the Conditional Sale Agreement (the "Equipment"); and

WHEREAS, pursuant to the Purchase Agreement and Participation Agreement the Assignee has agreed to purchase Conditional Sale Agreements as principal and as agent for Sun Life Insurance Company of America, subject to certain terms and conditions;

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid

by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual convenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Builder in and to each unit of the Equipment, and the security interest of the Builder in the contract rights, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of each unit of the Equipment;

(b) All the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment, the right to receive the $76,450 down payment specified in Article 4 thereof, and the right to receive reimbursement for taxes paid or incurred by the Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the Condi-

tional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement:

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement or to comply with its warranties and agreements contained in Article 15 of the Conditional Sale Agreement or relieve the Vendee from its obligations to the Builder contained in Articles 2, 4, 8, and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 16 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney,

hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement, and will deliver the same upon completion to the Vendee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement, and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agree-

ment and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the Conditional Sale Agreement until the Conditional Sale Agreement and this Agreement have been filed and recorded in accordance with 49 U.S.C. §11303 (the Builder and its counsel being entitled to rely on advice from counsel for the Vendee that such filing and recordation have occurred).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage (including, but not limited to, reasonable counsel fees) suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Vendee arising out of a breach by the Builder of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 16 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the

Vendee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Vendee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee with respect to the

Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. Upon delivery to and acceptance by the Vendee of the Equipment pursuant to the Conditional Sale Agreement (hereinafter called the Closing Date), the Assignee shall pay to the Builder the sum of One Million Four Hundred Fifty-Two Thousand Six Hundred and Seventy Dollars ($1,452,670), provided that there shall have been delivered to the Assignee (with an executed counterpart to the Vendee) the following documents, in form and substance satisfactory to it and to its counsel, in such number of counterparts as may be reasonably requested by said counsel:

(a) A bill of sale from the Builder to the Assignee transferring to the Assignee security title to the units of the Equipment, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the Conditional Sale Agreement, the Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agree-

ment, and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the Conditional Sale Agreement;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment delivered as contemplated by Article 3 of the Conditional Sale Agreement;

(c) A certificate of an officer of the Vendee to the effect that none of the units of the Equipment was placed in the service of the Vendee or otherwise was used by the Vendee prior to delivery and acceptance of such units under the Conditional Sale Agreement;

(d) An invoice of the Builder for the units of the Equipment accompanied by or having endorsed thereon a certification by the Vendee as to its approval thereof;

(e) Such documents as may be required by Section 3 of the Purchase Agreement;

(f) An opinion of counsel for the Vendee, dated as of the Closing Date, confirming the matters specified in Section 3.07(a) of the Purchase Agreement and additionally stating that (i) the Conditional Sale Agreement has

been duly authorized, executed and delivered by the Vendee, and assuming due authorization, execution and delivery by the other parties thereto, is a legal and valid instrument binding upon the Vendee and enforceable against the Vendee in accordance with its terms, (ii) the Assignee is vested with all the rights, titles, interests, powers and privileges of the Builder purported to be assigned to it by this Assignment; (iii) security title to the units of the Equipment is validly vested in the Assignee and such units, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement), (iv) the lien of the Conditional Sale Agreement is and constitutes a valid perfected first security interest in the Equipment (within the United States of America) and the Additional Security (as defined in the Conditional Sale Agreement), (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Conditional Sale Agreement or this Assignment, and the terms thereof comply in all respects with the applicable provisions

of the Interstate Commerce Act and the rules and regulations of the Interstate Commerce Commission thereunder, (vi) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303 and the necessary financing statements have each been duly recorded and filed in the form and manner required by law in all appropriate offices and places necessary to perfect the lien on and security interest in the Equipment (within the United States of America) and the Additional Security intended to be created by the Conditional Sale Agreement; no other filing or recordation is necessary to provide the Assignee full security title in and to the Equipment and a valid perfected first security interest in and to the Equipment and the Additional Security and (vii) registration of the Conditional Sale Agreement or this Assignment is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; and such

opinion shall also cover such other matters as may reasonably be requested by the Assignee;

(g) An opinion of counsel for the Builder, dated as of such Closing Date, to the effect set forth in clause (ii) and (iii) of subparagraph (f) above and stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder, and assuming due authorization, execution and delivery by the other parties thereof, is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms and (iii) this Assignment has been duly authorized, executed and delivered by the Builder, and assuming due authorization, execution and delivery by the other parties thereto, is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms.

In giving the opinions specified in subparagraphs (f) and (g) of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally.

SECTION 5. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment and upon giving the written notice required in Article 16 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby represents and warrants to and agrees with the Assignee, its successors and assigns:

(a) that it is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its own properties and to carry on its business as now conducted;

(b) that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid

consideration, that, assuming due authorization, execution and delivery thereof by the Vendee, the Conditional Sale Agreement is, insofar as the Builder is concerned, a legal, valid and existing agreement binding upon the Builder and enforceable against the Builder in accordance with its terms and that it is now in force without amendment thereto;

(c) that this Assignment was duly authorized by it and lawfully executed and delivered by it for a valuable consideration, and that assuming due authorization, execution, and delivery thereof by Assignee, this Assignment is insofar as the Builder is concerned, a legal, valid and existing agreement binding upon the Builder and enforceable against the Builder in accordance with its terms;

(d) that the Assignee is vested with all the rights, titles, interests, powers and privileges of the Builder purported to be assigned to it by this Assignment, and that security title to and security interest in the units of Equipment is validly vested in the Assignee;

(e) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assign-

ment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(f) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Maryland, provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. §11303, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement, any financing statement with respect thereto and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement, any financing statement with respect thereto or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of the Equipment.

SECTION 8. In the event that the Assignee shall not make payment for any units of the Equipment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 9. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of the date first above written, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements attached hereto.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto

affixed and duly attested, all as of the date first above written.

WHITTAKER CORPORATION
(Berwick Forge & Fabricating Division)

[Corporate Seal]

By _____
Authorized Signatory

ATTEST:

_____

THE FIRST NATIONAL BANK OF MARYLAND

[Corporate Seal]

By _____
Vice President

ATTEST:

_____

THE FIRST NATIONAL BANK OF MARYLAND, as Agent for Sun Life Insurance Company of America

[Corporate Seal]

By _____
Vice President

ATTEST:

_____

Comm. of PA.)
) SS:
County of Columbia)

I HEREBY CERTIFY, that on this 26th day of March, 1979, before the subscriber, a Notary Public in and for the below described County and State, personally appeared J. La Barbera, who, being by me duly sworn, says that he is an Authorized Signatory of WHITTAKER CORPORATION (Berwick Forge & Fabricating Division), 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 26th day of March, 1979.

Lloyd H. Adams
Notary Public
LLOYD H. ADAMS, NOTARY PUBLIC
BERWICK BORO, COLUMBIA COUNTY
MY COMMISSION EXPIRES SEPT. 19, 1982
Member, Pennsylvania Association of Notaries

[Notarial Seal]

My Commission expires:

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of March, 1979, before the subscriber, a Notary Public in and for the below described County and State personally appeared Douglas

G. Ober, who, being by me duly sworn, says that he is a Vice President of The First National Bank of Maryland, 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 27th day of March, 1979.

Linda Lee Frank
Notary Public

[Notarial Seal]

My Commission expires: July 1, 1982

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 28th day of March, 1979, before the subscriber, a Notary Public in and for the below described County and State personally Douglas G. Ober, who, being by me duly sworn, says that he is a Vice President of The First National Bank of Maryland, 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 acting by authority of its Board of Directors in its capacity as the duly appointed and authorized agent of Sun Life Insurance Company of America,

and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 29th day of March, 1979.

Linda Lee Stark
Notary Public

[Notarial Seal]

My Commission expires: July 1, 1982

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged by the undersigned as of March 30, 1979. The undersigned hereby agrees that, until otherwise instructed in writing by The First National Bank of Maryland, all payments required by the Conditional Sale Agreement shall, as required by the Conditional Sale Agreement Purchase Commitment Agreement dated May 31, 1978, be paid to The First National Bank of Maryland, P. O. Box 1596, Baltimore, Maryland, 21203, Attention: Arthur E. Jones, Jr.

NATIONAL RAILWAY UTILIZATION CORPORATION

[Corporate Seal]

By _____
Vice President

Attest:

_____
Asst. Sec

State of Pa.)
County of Phila.) SS:
)

I HEREBY CERTIFY, that on this 28th day of March, 1979, before the subscriber, a Notary Public in and for the below described County and State, personally appeared Richard J. Kelly, who, being by me duly sworn, says that he is a Vice President of National Railway Utilization Corporation, 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 28th day of March, 1979.

Darlene Marquette
Notary Public

DARLENE MARQUETTE
Notary Public, Phila., Phila. Co.
My Commission Expires Sept. 13, 1982

[Notarial Seal]

My Commission expires: