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INTERSTATE COMMERCE COMMISSION

9060-A
RECORDATION NO. Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

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November 4, 1977

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INTERSTATE COMMERCE COMMISSION

H. Gordon Homme, Jr.
Acting Secretary

Interstate Commerce Commission
Washington, D.C. 20423

9060-B
RECORDATION NO. Filed & Recorded
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Dear Mr. Homme:

INTERSTATE COMMERCE COMMISSION
CC Washington, D. C.

Pursuant to the provisions of Section 20c of the Interstate Commerce Act, as amended, and the regulations of the Interstate Commerce Commission promulgated thereunder, we are transmitting for filing or recording executed counterparts or originals and true and correct copies of the following documents:

1. Lease and Management Agreement dated as of October 31, 1977, between National Railway Utilization Corporation, as lessee, and Oakington General Partnership, as lessor;
2. Conditional Sale Agreement dated as of October 31, 1977, between Evans Transportation Company, as vendor, and Oakington General Partnership, as vendee, and additionally executed by National Railway Utilization Corporation;

Agreement and Assignment of Conditional Sale Agreement dated as of October 31, 1977, between Evans Transportation Company, as assignor, and Sun Life Insurance Company of America, as assignee, together with an Acknowledgment by Oakington General Partnership;

4. Assignment of Lease and Management Agreement dated as of October 31, 1977, between Oakington General Partnership, as assignor, and Sun Life Insurance Company of America, as assignee, together with the Acknowledgment and Consent of National Railway Utilization Corporation;

Clarence J. ...
Norman R. ...

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5. Residual Interest Agreement dated as of October 31, 1977, between Oakington General Partnership, Sun Life Insurance Company of America and National Railway Utilization Corporation.

The names and addresses of the parties to the transaction are listed below under the title of the document to which they are parties.

LEASE AND MANAGEMENT AGREEMENT:

National Railway Utilization Corporation *Reese*
860 Suburban Station
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

Oakington General Partnership *Reese*
7411 Riggs Road
Hyattsville, Maryland .

CONDITIONAL SALE AGREEMENT:

National Railway Utilization Corporation *of limited*
860 Suburban Station
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

Oakington General Partnership *Vendor*
7411 Riggs Road
Hyattsville, Maryland

Evans Transportation Company *Vendor*
2200 E. Devon Avenue
Des Plaines, Illinois 60018

RESIDUAL INTEREST AGREEMENT:

National Railway Utilization Corporation *Company*
860 Suburban Station
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

Oakington General Partnership *Vendor*
7411 Riggs Road
Hyattsville, Maryland

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Sun Life Insurance Company of America *assigned*
20 South Charles Street
Baltimore, Maryland 21201

AGREEMENT AND ASSIGNMENT:

Evans Transportation Company *assigned*
2200 E. Devon Avenue
Des Plaines, Illinois 60018

Sun Life Insurance Company of America *assigned*
20 South Charles Street
Baltimore, Maryland 21201

ASSIGNMENT OF LEASE AND MANAGEMENT AGREEMENT:

Oakington General Partnership *assigned*
7411 Riggs Road
Hyattsville, Maryland

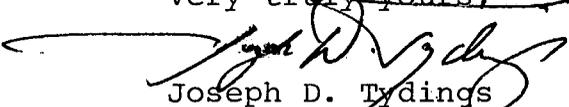
Sun Life Insurance Company of America *assigned*
20 South Charles Street
Baltimore, Maryland 21201

A general description of the Equipment covered by the Lease and Management Agreement and the Conditional Sale Agreement is contained in Exhibit A to this letter.

The above identified documents have not been previously recorded with the Interstate Commerce Commission. Please accept for recordation two counterparts of each document, stamp the remaining counterparts with the appropriate recordation number and return them with your confirmed receipt by my delivering messenger. Please cross index document number two above under the name of National Railway Utilization Corporation.

The filing and recordation fees in the amount of \$170.00 are submitted herewith.

Very truly yours,


Joseph D. Tydings
Managing Partner
Oakington General Partnership

mm
Enclosure

RECORDATION NO. 9020-C
NOV 4 1977-12 45 PM
INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND MANAGEMENT AGREEMENT dated as of October 31, 1977 (hereinafter called "this Assignment"), by and between Oakington General Partnership (the "Vendee"), and Sun Life Insurance Company of America (the "Assignee").

WHEREAS, the Vendee and National Railway Utilization Corporation ("NRUC") are as of this date hereof entering into a Conditional Sale Agreement with Evans Transportation Company (the "Vendor") (the "Conditional Sale Agreement"), providing for the sale to the Vendee of such units of railroad equipment described in the Exhibit A thereto (the "Equipment") as are delivered to and accepted by the Vendee and NRUC thereunder; and

WHEREAS, the Vendee and NRUC have entered into a Lease and Management Agreement dated as of October 31, 1977 (the "Management Agreement"), providing for the leasing by the Vendee to NRUC of the Equipment and the management and maintenance of the Equipment by NRUC; and

WHEREAS, the Vendee has requested the Assignee to finance the Vendee's purchase of the Equipment by purchasing the Conditional Sale Agreement and executing with the Vendor an Agreement and Assignment (the "Agreement and Assignment") of even date herewith; and

WHEREAS, the Assignee has agreed to provide such financing and to execute the Agreement and Assignment, provided that the Vendee as additional security and consideration for the financing execute this Assignment, and provided further

that the Vendee grant to the Assignee as an additional interest payment on the financing a certain "residual interest" in the Equipment through the execution of a Residual Interest Agreement of even date herewith (the "Residual Agreement");

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the mutual promises, covenants and agreements set forth herein, the parties hereto do hereby agree as follows:

1. The Vendee hereby assigns, transfers and sets over unto the Assignee, as collateral security for the payment and performance of the Vendee's obligations under the Conditional Sale Agreement and the Residual Agreement, all the Vendee's right, title and interest, powers, privileges, and other benefits under the Management Agreement, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Vendee from NRUC under or pursuant to the provisions of the Management Agreement, whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices,

consents and releases, to take all action upon the happening of an event of default specified in the Management Agreement, and to do any and all other things whatsoever which the Vendee is or may become entitled to do under the Management Agreement. In furtherance of the foregoing assignment, the Vendee hereby irrevocably authorizes and empowers the Assignee in its own name or the name of its nominee, or in the name of the Vendee or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Vendee is or may become entitled under the Management Agreement, and to enforce compliance by NRUC with all the terms and provisions thereof.

The Assignee agrees to accept any payments made by NRUC for the account of the Vendee pursuant to the Management Agreement, and shall retain and apply such payments pursuant to the terms of Article 2 of the Residual Agreement. If the Assignee shall not receive when due any payment required by Paragraph 6 of the Management Agreement, the Assignee shall notify the Vendee at the address set forth in the Conditional Sale Agreement.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Assignee to any obligation, or transfer, or pass, or in any way affect

or modify the liability of the Vendee under the Management Agreement, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Vendee to NRUC shall be and remain enforceable by NRUC, its successors and assigns, against, and only against, the Vendee or persons other than the Assignee.

3. To protect the security afforded by this Agreement the Vendee agrees as follows:

(a) The Vendee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Management Agreement provides are to be performed by the Vendee; without the written consent of the Assignee, the Vendee will not anticipate the payments under the Management Agreement or waive, excuse, condone, forgive or in any manner release or discharge NRUC thereunder of or from the obligations, covenants, conditions and agreements to be performed by NRUC, including, without limitation, the obligation to make the payments in the manner and at the time and place specified therein, or enter into any agreement amending, modifying or terminating the Management Agreement, and the Vendee agrees, and NRUC hereby acknowledges, that any amendment, modification or termination thereof without such consent shall be void.

(b) At the Vendee's sole cost and expense, the

Vendee will appear in and defend every action or proceeding arising under, growing out of, or in any manner connected with the obligations, duties or liabilities of the Vendee under the Management Agreement.

(c) Should the Vendee fail to make any payment or to do any act which this Assignment requires the Vendee to make or so do, then the Assignee, but without obligation to do so, after first making written demand upon the Vendee and affording the Vendee a reasonable period of time within which to make such payment or do such act, but without releasing the Vendee from any obligation hereunder, may make or do the same in such manner and to such extent as the Assignee may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the right to perform and discharge each and every obligation, covenant and agreement of the Vendee contained in the Management Agreement; and in exercising any such powers, the Assignee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Vendee will reimburse the Assignee for such costs, expenses and fees.

4. The Vendee does hereby constitute the Assignee the Vendee's true and lawful attorney, irrevocably,

with full power (in the name of the Vendee, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all payments due and to become due under or arising out of the Management Agreement to which the Vendee is or may become entitled, to enforce compliance by NRUC with all the terms and provisions of the Management Agreement, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Assignee may deem to be necessary or advisable.

5. All rights to the Management Agreement and the payments due thereunder granted to the Assignee pursuant to this Assignment are deemed to be included within the term Additional Security as that term is defined in the Conditional Sale Agreement, and any reference to the Additional Security in the Conditional Sale Agreement, the Agreement and Assignment, the Residual Agreement, and any related documents, including all representations, warranties and agreements of the Vendee, shall apply with equal force and effect (as between the parties executing this Assignment) to the rights of the Vendee under the Management Agreement, including the right to all payments due thereunder, which have been assigned and granted to the Assignee as additional security pursuant to this Agreement.

6. Upon the full discharge and satisfaction of all NRUC's and the Vendee's obligations under the Conditional Sale Agreement, and the full and complete satisfaction of all of the Vendee's obligations under the Residual Agreement, this Agreement and all rights herein assigned to the Assignee shall terminate, and all estate, right, title and interest of the Assignee in and to the Management Agreement shall revert to the Vendee.

7. The Vendee will furnish the Assignee with an opinion of Counsel that this Assignment has been duly authorized, executed and delivered by the Vendee and is a legal and valid agreement binding on the Vendee.

8. The Vendee will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Assignee in order to confirm or further assure, the interests of the Assignee hereunder.

9. The Assignee may assign all or any of the rights assigned to it hereby or arising under the Management Agreement, including, without limitation, the right to receive any payments due or to become due, provided, however, that the Assignee does not assign its rights hereunder to any assignee other than a permitted assignee to any rights it may have under the Conditional Sale Agreement.

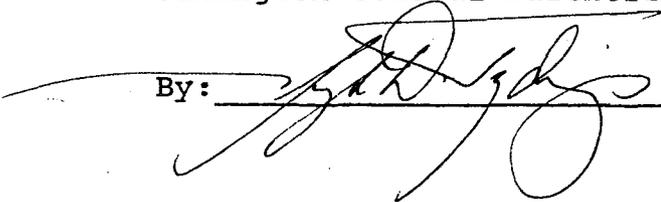
In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

10. This Assignment shall be governed by the laws of the State of Maryland, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

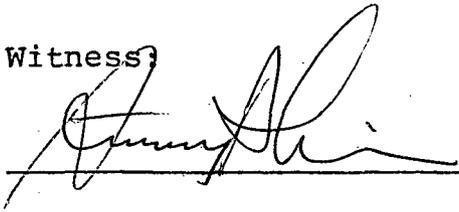
11. The Vendee shall cause copies of all notices received in connection with the Management Agreement and all payments thereunder or hereunder to be promptly delivered or made to the Assignee at its address set forth in Article 26 of the Conditional Sale Agreement, or at such other address as the Assignee shall designate.

IN WITNESS WHEREOF, the parties hereto have caused this assignment to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunder affixed and duly attested, all as of the date first above written.

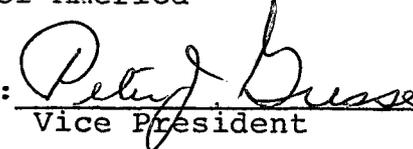
Oakington General Partnership

By:  (SEAL)

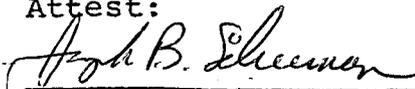
Witness:



Sun Life Insurance Company
of America

By: 
Vice President

[Corporate Seal]
Attest:

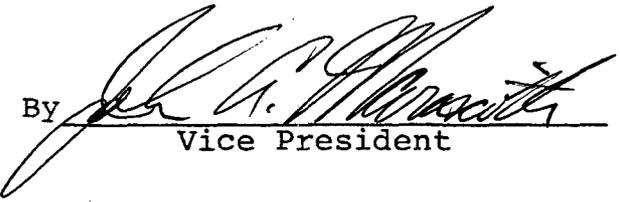


Acknowledgement of Notice of Assignment

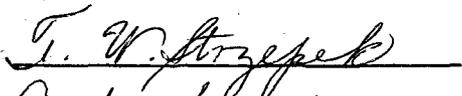
The foregoing Management Assignment is hereby acknowledged by NRUC, and NRUC hereby consents to make all future payments due under the Management Agreement to the Assignee as provided in Article 2 of the Residual Agreement. NRUC also agrees that it shall provide to the Assignee notice of any default by the Vendee under the Management Agreement, and if the Assignee shall within thirty (30) days of such notice cure any such default, the Assignee shall succeed to the position and rights of the Vendee under the Management Agreement (without assuming any responsibility for the obligations of the Vendee thereunder), and continue to receive payments from NRUC pursuant to the Management Agreement as long as no other event of default on the part of the Vendee shall occur. The Assignee shall have the same right to immediate succession to the position and rights of the Vendee under the Management Agreement upon the occurrence of an event of default under the Conditional Sale Agreement.

NATIONAL RAILWAY UTILIZATION CORPORATION

[Corporate Seal]

By 
Vice President

ATTEST:


Asst. Secretary

State of Maryland)
City of Baltimore) SS:

On this 1st day of November, 1977, before me personally appeared Joseph D. Tydings, Managing Partner, Oakington General Partnership, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that the execution of the foregoing instrument was his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1st day of November, 1977.

Patricia McC. Fabian
Notary Public



[Notarial Seal] PUBLIC
My commission expires: *July 1, 1978*

State of Maryland)
City of Baltimore) SS:

On this 1st day of November, 1977, before me personally appeared *Peter J. Gessens*, to me personally known, who, being by me duly sworn, says that he is *Vice President* of Sun Life Insurance Company of America, that one of the seals affixed to the foregoing instrument was

signed and sealed on behalf of said association 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 association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1st day of November, 1977.

Patricia McC. Fabian
Notary Public



[Notarial Seal]

My Commission expires July 1, 1978

State of Maryland)
City of Baltimore)

SS:

I HEREBY CERTIFY, that on this 1st day of November 1977, before the subscriber, a Notary Public in and for said City and State personally appeared John A. Traversetti, 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 *1st* day of *November*, 1977.

Patricia M. C. Fabian
Notary Public

[Notarial Seal]

My Commission expires: *July 1, 1978*

