

March 13, 1979 Conditional
Sale Agreement

RECORDATION NO. 10202-~~B~~-C ^{change to C}
INTERPART NO. 2 ^{4/2/80}

MAR 5 1980 -2 50 PM

AMENDMENT NO. 1 TO ^{INTERSTATE COMMERCE COMMISSION} ~~CONDITIONAL~~ SALE AGREEMENT dated as of February 27, 1980 (the "Amendment"), by and between NATIONAL RAILWAY UTILIZATION CORPORATION (the "Vendee") and THE FIRST NATIONAL BANK OF MARYLAND ("FNB"), both in its individual capacity and as agent for SUN LIFE INSURANCE COMPANY OF AMERICA ("Sun Life").

WHEREAS, the Vendee and Whittaker Corporation (Berwick Forge & Fabricating Division) (the "Builder") entered into a Conditional Sale Agreement dated as of March 13, 1979 (the "Conditional Sale Agreement") providing for the purchase by the Vendee of certain railroad equipment described in Exhibit A attached thereto (the "Equipment"); and

WHEREAS, pursuant to an Agreement and Assignment dated as of March 13, 1979 (the "Agreement and Assignment"), and in accordance with the terms of the Conditional Sale Agreement Purchase Commitment Agreement dated as of May 31, 1978 (the "Agreement"), the Builder assigned to FNB, both as principal and as agent for Sun Life, all of its right, title and interest (but none of its obligations) in and under the Conditional Sale Agreement; and

WHEREAS, the Conditional Sale Agreement and the Agreement and Assignment were filed and recorded with the Interstate Commerce Commission on March 13, 1979 and assigned recordation numbers 10202 and 10202-A, respectively, and an

Amendment to the Conditional Sale Agreement dated as of March 19, 1979 was executed and filed with the Interstate Commerce Commission on March 22, 1979 and assigned recordation number 10202-B; and

WHEREAS, in accordance with Amendment No. 1 to the Conditional Sale Agreement Purchase Commitment Agreement dated as of February 11, 1980 ("Amendment No. 1"), NRUC and FNB wish to amend certain provisions of the Conditional Sale Agreement relating to interest charges and the repayment of the conditional sale indebtedness;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. Paragraph (a) of Article 4 of the Conditional Sale Agreement is hereby amended by deleting such paragraph (a) in its entirety and substituting in lieu thereof the following:

"(a) Principal Payments - The principal sum of \$1,452,670 (hereinafter called the "Conditional Sale Indebtedness"), payable by (i) one payment on the last day of the 6th month after the date of this Agreement in an amount equal to 10% of the Total Base Price, (ii) followed by quarterly installments in the amount of \$32,494 commencing on December 31, 1979 and payable on the last day of every third month thereafter until January 15, 1981, (iii) followed by the final payment of the entire unpaid Conditional Sale Indebtedness and interest thereon on or before January 15, 1981."

2. Paragraph (b) of the Conditional Sale Agreement is hereby amended by deleting such paragraph (b) in its entirety and substituting in lieu thereof the following:

"(b) Interest Payments - Interest (computed on the basis of the actual number of days elapsed from the date of this Agreement divided by a year of three hundred sixty (360) days) on the unpaid Conditional Sale Indebtedness shall be accrued and paid as follows:

(i) during the period commencing with the date of this Agreement and ending with the last day of the sixth month after the date of this Agreement, an annual rate of interest equal at all times to the prime rate at The First National Bank of Maryland, plus 1 3/4% per annum;

(ii) on the first day of the seventh month after the date of this Agreement and ending on the last day of the twelfth month after the date of this Agreement, at an annual rate of interest equal to the prime rate at The First National Bank of Maryland, plus 2 1/4% per annum; and

(iii) from and after the first day of the thirteenth month after the date of this Agreement, and until the unpaid Conditional Sale Indebtedness is repaid in full, at an annual rate of interest equal to the greater of (x) 15% or (y) 2 1/2% plus the prime rate at The First National Bank of Maryland.

Interest shall be payable quarterly, commencing on the last day of the third month following the date of this Agreement and continuing thereafter on the last day of every third month until maturity on January 15, 1981, when all unpaid and accrued interest shall be due and payable. For purposes of the above, the prime rate shall mean the lowest per annum corporate lending rate publicly quoted by The First National Bank of Maryland for commercial borrowers from time to time on loans of 90-day maturity. All increases or decreases in the prime rate at The First National Bank of Maryland shall be reflected immediately in the interest rate charged with respect to the unpaid Conditional Sale Indebtedness.

The Vendee will pay interest, to the extent legally enforceable, at the greater of the rate provided above or the rate of

18% per annum upon all matters remaining unpaid after the same shall have been due and payable pursuant to the terms hereof, or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding."

In all other respects, the Conditional Sale Agreement shall remain in full force and effect without amendment or modification.

IN WITNESS WHEREOF, the parties have executed this Amendment on the dates specified in the acknowledgments attached hereto, effective as of the date and year first above written.

ATTEST:

Walter S. Mills
Asst. Sec.
[Corporate Seal]

NATIONAL RAILWAY UTILIZATION CORPORATION

By *John P. Tunkle* VP

Ben McCall
[Corporate Seal]

THE FIRST NATIONAL BANK OF MARYLAND

By *John S. ...*
VICE-PRESIDENT

Ben McCall
[Corporate Seal]

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

By *John S. ...*
VICE-PRESIDENT

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

I HEREBY CERTIFY, that on this *25th* day of February, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Charles P. Turner*, 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 day of February, 1980.

Gerald McWilliams

Notary Public

[Notarial Seal]

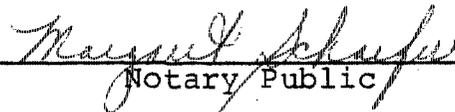
My Commission Expires:

GERALD McWILLIAMS
Notary Public, Phila., Phila. Co.
My Commission Expires May 16, 1982

State of Maryland,
City of Baltimore) SS:

I HEREBY CERTIFY, that on this 28 day of February, 1980, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared Arthur E. Jones, Jr., 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 28 day of February, 1980.



Notary Public

[Notarial Seal]

My Commission Expires: July 1, 1982

State of Maryland)
) SS:
City of Baltimore

I HEREBY CERTIFY, that on this *28* day of February, 1980, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared ARTHUR E. JONES, JR., 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 *28* day of February, 1980.

Margaret Schaefer

Notary Public

[Notarial Seal]

My Commission Expires: July 1, 1982