

FOURTH AMENDMENT TO
CONDITIONAL SALE AGREEMENT

RECORDATION NO. 10168-C Filed 1425

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INTERSTATE COMMERCE COMMISSION

FOURTH AMENDMENT TO CONDITIONAL SALE AGREEMENT

(the "Fourth Amendment") dated as of February 27, 1980 by and between N. R. Financial Corporation (the "Vendee"), National Railway Utilization Corporation (the "Guarantor"), Rail Fleet Corporation (the "Builder") and The First National Bank of Maryland (the "Assignee").

WHEREAS, the Vendee, the Guarantor and the Builder entered into a Conditional Sale Agreement dated as of February 16, 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 February 16, 1979 (the "Agreement and Assignment") the Builder assigned to the Assignee 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 duly filed and recorded with the Interstate Commerce Commission on March 2, 1979 and assigned Recordation Nos. 10168-B and 10168-C, respectively; and

WHEREAS, the Conditional Sale Agreement was amended by an Amendment to Conditional Sale Agreement dated as of May 28, 1979 and filed with the Interstate Commerce Commission on June 1, 1979 and assigned Recordation No. 10168-E; and

WHEREAS, the Conditional Sale Agreement was further amended by a Second Amendment to Conditional Sale Agreement dated as of August 31, 1979 and filed with the Interstate Commerce Commission on September 6, 1979 and assigned Recordation No. 10168-G; and

WHEREAS, the Conditional Sale Agreement was further amended by a Third Amendment to Conditional Sale Agreement dated as of October 31, 1979 and filed with the Interstate Commerce Commission on November 2, 1979 and assigned Recordation No. 10168-H; and

WHEREAS, the Vendee, the Builder, the Guarantor and the Assignee wish further to amend certain provisions of the Conditional Sale Agreement;

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

The first three paragraphs of Article 4 of the Conditional Sale Agreement are hereby amended and modified as of

the date first above written by deleting the first three paragraphs of Article 4 in their entirety and the replacement in lieu thereof of the following four paragraphs:

Article 4. Purchase Price and Payment. The total base price (the "Total Base Price") and price per unit (excluding all inspection and certification fees) are specified in Exhibit A attached hereto. In consideration of the manufacture and delivery of the Equipment, the Vendee hereby agrees to pay in cash to the Vendor (i) on or before June 1, 1979, interest on the principal sum of \$364,500 (hereinafter called the "Conditional Sale Indebtedness") accrued and owing through and including that date, (ii) on or before August 31, 1979, interest on the Conditional Sale Indebtedness accrued and owing through and including that date, (iii) on or before October 31, 1979, interest on the Conditional Sale Indebtedness accrued and owing through and including that date, (iv) on or before January 31, 1980, the principal sum of \$108,000, plus interest on the unpaid Conditional Sale Indebtedness accrued and owing through and including that date, and (v) at anytime after January 31, 1980, upon demand by the Vendor, all unpaid Conditional Sale Indebtedness, plus all accrued and unpaid interest payable with respect thereto. In addition, and regardless of whether any demand for payment is made pursuant to subparagraph (v) above, the Vendee shall pay on or before the last day of each month, interest on the unpaid Conditional Sale Indebtedness accrued and owing through and including that date, and shall further pay on or before June 30, 1980, all unpaid Conditional Sale Indebtedness, plus all accrued and unpaid interest payable with respect thereto. Demand for payment by the Vendor of the unpaid Conditional Sale Indebtedness and interest thereon may be made by the Vendor at anytime and in the Vendor's sole discretion and regardless of whether any event of default shall exist hereunder, and nothing contained in this Agreement shall in any way be deemed to limit or restrict the right of the Vendor to make any such demand.

Interest (computed on the basis of actual number of days elapsed from the date of this Agreement, divided by a year of 360 days) shall be accrued and paid as above provided, through and including February 27, 1980, at an annual rate of interest equal at all times to 2% plus 110% of the prime rate at The First National Bank of Maryland, and thereafter at an annual rate of interest equal at all times to the greater of (i) 15% or (ii) 2% plus the prime rate at The First National Bank of Maryland.

For purposes of the foregoing, 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 higher of the rate provided above or 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 amounts as shall be legally enforceable, anything herein to the contrary notwithstanding.

In all other respects, the Conditional Sale Agreement and the Agreement and Assignment continue to be in full force and effect without amendment or modification.

IN WITNESS WHEREOF, the parties have executed or

caused this Amendment to be executed on the date specified in the acknowledgments attached hereto, effective as of the date first above written.

ATTEST:

Matthew F. Mills
Asst. Sec.
[Corporate Seal]

N. R. FINANCIAL CORPORATION

BY *Charles P. Tuckler VP*

Matthew F. Mills
Asst. Sec.
[Corporate Seal]

NATIONAL RAILWAY UTILIZATION CORPORATION

BY *Charles P. Tuckler VP*

Matthew F. Mills
Asst. Sec.
[Corporate Seal]

RAIL FLEET CORPORATION

BY *Charles P. Tuckler VP*

J. M. G.
[Corporate Seal]

THE FIRST NATIONAL BANK OF MARYLAND

BY *[Signature]*
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. Turnbucke, who, being by me duly sworn, says that he is a ~~Vice~~ President of N. R. Financial 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 25th day of February, 1980.


Gerard McWilliams
Notary Public

[Notarial Seal]

My Commission Expires:

GERARD McWILLIAMS
Notary Public, Phila., Phila. Co.
My Commission Expires May 10, 1982

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. Turnbuckle*, 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 *25th* day of February, 1980.

Gerard McWilliams

Notary Public

[Notarial Seal]

My Commission Expires:

GERARD McWILLIAMS
Notary Public, Phila., Phila. Co.
My Commission Expires May 10, 1982

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. Turnburke*, who, being by me duly sworn, says that he is a Vice President of Rail Fleet 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 *25th* day of February, 1980.

Gerard McWilliams

Notary Public

[Notarial Seal]

My Commission Expires:

GERARD McWILLIAMS
Notary Public, Phila., Phila. Co.
My Commission Expires May 10, 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 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.

Margaret A. Schuler

Notary Public

[Notarial Seal]

My Commission Expires: July 1, 1982