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OFFICES IN  
WASHINGTON, D C  
NEW YORK  
NEW JERSEY

May 17, 1993

REC- 18236  
RECORDATION NO. FILED 1993

MAY 17 1993 12-15 PM

HAND DELIVERED

Mr. Sidney L. Strickland  
Secretary  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION

Dear Mr. Strickland

Enclosed for recordation pursuant to the provisions of 49 U.S.C. § 11303(a) are one (1) original and one (1) conformed copy of the Memorandum of Right of First Refusal dated as of May 14, 1993 (the "Memorandum"), a primary document as defined in the Commission's Rules for Recordation of Documents.

The names and addresses of the parties to the enclosed Memorandum are:

Seller: The David J. Joseph Company  
300 Pike Street  
Cincinnati, Ohio 45202

Buyer: The First National Bank  
of Maryland  
Transportation Division  
25 South Charles Street  
Baltimore, Maryland 21201

A description of the boxcars covered by the enclosed document is set forth in Schedule 1 attached hereto and made a part hereof.

Also enclosed is our check in the amount of \$16.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

*Blue Ford*  
*Chambers*

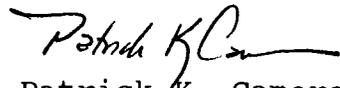
Mr. Sidney L. Strickland  
May 17, 1993  
Page 2

Kindly return a file-stamped copy of the enclosed document to Patrick K. Cameron, Esq., Ober, Kaler, Grimes & Shriver, 120 East Baltimore Street, Baltimore, Maryland 21201-1643.

A short summary of the enclosed primary document to appear in the Commission's index is:

Memorandum of Right of First Refusal dated as of May 14, 1993, by and between The David J. Joseph Company, as seller, and The First National Bank of Maryland, as buyer, covering nineteen (19) 100-ton boxcars, built in 1977 by Greenville, and bearing MILW reporting marks 4787 through 4792 and 4794 through 4806, inclusive.

Very truly yours,



Patrick K. Cameron

PKC/pml  
Enclosures

Schedule 1

Nineteen (19) 100 ton, 86'6" long, high cube capacity boxcars,  
1977 Greenville built, AAR designation XP railroad cars

Bearing Reporting Marks: MILW 4787 through 4792 and 4794  
through, | inclusive

4806

Interstate Commerce Commission  
Washington, D.C. 20423

5/17/93

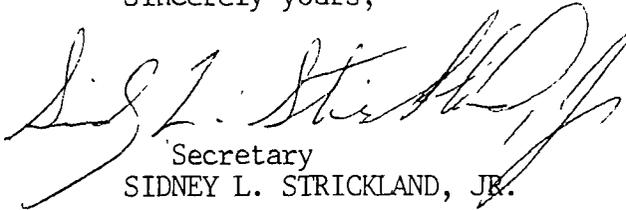
OFFICE OF THE SECRETARY

Patrick K Cameron  
Ober, Kaler, Grimes & Shriver  
120 East Baltimore St.  
Baltimore, Maryland 21202-1653

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **5/17/93** at **12:15pm**, and assigned recordation number(s). **18235 & 18235-A** **18236**

Sincerely yours,

  
Secretary  
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

MEMORANDUM OF RIGHT OF FIRST REFUSAL

THIS MEMORANDUM OF RIGHT OF FIRST REFUSAL is entered into as of the 14<sup>th</sup> day of ~~April~~<sup>May</sup> 1993, by and between THE DAVID J. JOSEPH COMPANY, a Delaware corporation ("Seller"), and THE FIRST NATIONAL BANK OF MARYLAND, a national banking association ("Buyer").

WITNESSETH

Seller and Buyer are parties to a certain Purchase and Sale Agreement dated as of April 1, 1993 (the "Purchase Agreement"), pursuant to which the Buyer purchased Seller's entire right, title and interest in and to the railroad cars identified on Schedule 1 attached hereto (collectively, the "Railcars"); and

WHEREAS, in connection with the transactions contemplated by the Purchase Agreement, Buyer granted Seller, under certain limited circumstances, a right of first refusal to purchase or lease said Railcars; and

WHEREAS, the parties intend that said right, to the extent and only for as long as it applies, will operate as a lien on the Railcars as herein provided.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein and in the Purchase Agreement, the parties do hereby confirm that the right of first refusal granted by Buyer to Seller pursuant to the Purchase Agreement, the terms which are set forth on Schedule 2 attached hereto and made a part hereof, shall, to the extent applicable, operate as a lien on the Railcars and the Railcars shall not be sold, leased or otherwise transferred by Buyer except in accordance with the terms and provisions of said right of first refusal.

This Memorandum of Right of First Refusal, being further evidence of the transactions contemplated by the Purchase Agreement, neither expands upon nor limits the rights and obligations of the parties under the Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Right of First Refusal to be duly executed, under seal, as of the date and year first above written.

WITNESS:

THE FIRST NATIONAL BANK OF MARYLAND

*Patrick K. ...*

By: *Paul M. Leand, Jr.* (SEAL)  
Paul M. Leand, Jr.  
Leasing Executive

THE DAVID J. JOSEPH COMPANY

*Susan L. Hardenburgh*

By: *Douglas F. McMillan* (SEAL)  
Douglas F. McMillan  
Corporate Vice President and  
RELM Division President

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

On this 14<sup>th</sup> day of ~~April~~<sup>MAY 8</sup>, 1993, before me the subscriber, a Notary Public duly commissioned, qualified and acting, within and for said County and State, appeared in person Douglas F. McMillan to me personally known, who stated and acknowledged that he is the Corporate Vice President and RELM Division President of The David J. Joseph Company, a Delaware corporation, and that by the authority vested in him by the Board of Directors of said corporation he, in the name and on behalf of said corporation, did sign, execute and deliver the foregoing instrument as the free and voluntary act and deed of said corporation, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 14<sup>th</sup> day of ~~April~~<sup>MAY 8</sup>, 1993.

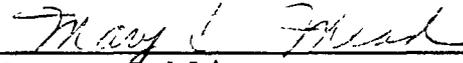
  
\_\_\_\_\_  
Notary Public  
JAMES H. GOETZ

My commission expires: Notary Public, State of Ohio  
~~My Commission Expires July 10, 1995~~

STATE OF MARYLAND )  
 ) SS:  
CITY OF BALTIMORE )

On this 14<sup>th</sup> day of April, 1993, before me the subscriber, a Notary Public duly commissioned, qualified and acting, within and for said County and State, appeared in person Paul M. Leand, Jr. to me personally known, who stated and acknowledged that he is a Leasing Executive of The First National Bank of Maryland, a national banking association, and that by the authority vested in him by the Board of Directors of said association he, in the name and on behalf of said association, did sign, execute and deliver the foregoing instrument as the free and voluntary act and deed of said association, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 14<sup>th</sup> day of April, 1993.

  
\_\_\_\_\_  
Notary Public

My commission expires: May 10 1995

MEMORANDUM OF RIGHT OF FIRST REFUSAL

SCHEDULE 1

LIST OF RAILCARS

Description of Railcars:

Nineteen (19) 100 ton, 86'6" long, high cube capacity boxcars,  
1977 Greenville built, AAR designation XP railroad cars

Bearing Reporting Marks: MILW 4787 - 4806, inclusive,  
excluding: MILW 4793

## MEMORANDUM OF RIGHT OF FIRST REFUSAL

### SCHEDULE 2

Buyer hereby grants to Seller, and Seller shall have, the right of first refusal to purchase or lease the Railcars, or any portion thereof, at the end of the Lease term in the event Buyer desires to sell or lease the Railcars to anyone other than Lessee. In the event that Lessee offers to purchase or lease the Railcars from Buyer at the end of the Lease term, Buyer shall have the right to sell or lease the Railcars to Lessee free of such restriction and of any claim of Seller.

However, should Buyer receive a bona fide offer to purchase or lease the Railcars, or any portion of the Railcars, from one other than Lessee and Buyer desires to accept such offer (the "Offer"), Buyer shall send to Seller a copy of the Offer and Seller shall have a period of fifteen (15) days after receipt of said Offer within which to notify Buyer in writing that it elects to purchase or lease the Railcars that are the subject of the Offer on the same terms and conditions of the Offer, except that Seller shall in no event be required to close the purchase of the Railcars or enter into a lease of the Railcars pursuant to the Offer earlier than thirty (30) days after receipt of said Offer by Seller from Buyer, and except that Seller shall be entitled to substitute an amount of cash equal to the fair market value of any non-cash consideration to be paid to Buyer pursuant to the Offer. In the event Seller exercises its right of first refusal to purchase the Railcars subject to the Offer, Buyer shall sell the Railcars that are the subject of the Offer to Seller and Seller shall pay the purchase price thereof within sixty (60) days of the date said Offer was first received by Seller. In the event Seller exercises its right of first refusal to lease the Railcars subject to the Offer, Buyer shall lease the Railcars to Seller provided Seller then meets the Buyer's current credit criteria and underwriting standards and Seller delivers to Buyer within sixty (60) days of its receipt of said Offer a signed lease, in form and substance satisfactory to Buyer. Should Seller fail to meet the Buyer's credit criteria and underwriting standards or to comply with its obligations hereunder, the Buyer may accept the Offer and lease the Railcars to the party making the Offer on the terms and conditions set forth in said Offer.

If Seller notifies Buyer that it does not intend to exercise its right of first refusal with respect to the Railcars mentioned in the Offer, or if Seller does not exercise its right of first refusal within fifteen (15) days of receipt of any Offer from Buyer, Buyer shall be free for a period of sixty (60) days to sell or lease the Railcars that are the subject of the Offer on the same terms and conditions as are set forth in the Offer, and if the Railcars are not sold or leased in accordance with the

terms and provisions of the Offer within said sixty (60) day period, Seller's right of first refusal with respect to said Railcars shall be reinstated as aforesaid. Seller's right of first refusal granted herein shall expire with respect to the Railcars sold to a third party in accordance with this Section 13 on the date of such sale. Seller's rights of first refusal granted herein shall expire with respect to the Railcars leased to a third party in accordance with this Section 13 on the date such Railcars are placed under lease. As to all other Railcars for which no Offer has yet been received, Seller's right of first refusal shall, unless waived by Seller, remain in full force and effect. Seller and Buyer agree to enter into a memorandum setting forth the Seller's right of first refusal (the "Memorandum"), which Memorandum shall be in substantially the same form as Exhibit F hereto and shall be recorded pursuant to 49 U.S.C. 11303 with the ICC.