

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

INTERNATIONAL TELEX: 620976

TELETYPE: 710-581-0338

TELEX: 125547

RECORDATION NO. *6378 A* Filed & Recorded

JAN 3 1978 -4 20 PM

INTERSTATE COMMERCE COMMISSION

COUNSEL

ROSWELL L. GILPATRICK
CARLYLE E. MAW

EDWARD S. PINNEY
L. R. BRESLIN, JR.
GEORGE B. TURNER
HAROLD R. MEDINA, JR.
JOHN H. MORSE
CHARLES R. LINTON

4, PLACE DE LA CONCORDE
75008 PARIS, FRANCE
TELEPHONE: 265-81-54

TELEX: 290530

TERMINAL HOUSE
52, GROSVENOR GARDENS
LONDON, SW1W 0AU ENGLAND
TELEPHONE: 01-730-5203
TELEX: 917840

CABLE ADDRESSES

CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON S.W.1.

MAURICE T. MOORE
BRUCE BROMLEY
ALBERT R. CONNELLY
FRANK H. DETWEILER
GEORGE G. TYLER
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DEKOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT, JR.
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK

GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. ORMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL

December 30, 1977

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Itel Corporation, Rail Division, and First Security Bank of Utah, National Association, for filing and recordation five counterparts of the following document:

Amendment Agreement and Assumption dated as of December 15, 1977, between Itel Corporation, Rail Division, and First Security Bank of Utah, National Association.

The names and addresses of the parties to the aforementioned document are as follows:

(1) Lessee:

Itel Corporation,
Rail Division,
Two Embarcadero Center,
San Francisco, California 94111.

(2) Trustee-Lessor:

First Security Bank of Utah,
National Association,
79 South Main Street,
Salt Lake City, Utah 84111.

NO. JAN 3 1978
Date
Fee \$ *10-*

ICC Washington, D. C.

Edward Atter
Edward Atter

The Amendment Agreement and Assumption amends certain provisions of two separate Equipment Leases and a Restated Equipment Lease dated as of August 15, 1976, October 15, 1976, and November 15, 1976, respectively, each being between the Trustee-Lessor and SSI Rail Corp., and provides for the assumption by the Lessee of the obligations of SSI Rail Corp. under said Equipment Leases and said Restated Equipment Lease. The aforementioned Equipment Leases and the aforementioned Restated Equipment Lease were filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on the dates and received the recordation numbers, as are set forth in respect thereof under the captions for "Agreements" in Exhibit A attached hereto.

The Amendment Agreement and Assumption also provides for the assumption by the Lessee of the obligations of SSI Rail Corp. under certain Subleases between SSI Rail Corp. and the Sublessees named in Exhibit A attached hereto. Said Subleases were filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on the dates, and received the recordation numbers, as are set forth in respect thereof in Exhibit A attached hereto.

SSI Rail Corp. is being merged into ITEL Corporation as of December 30, 1977.

Please file and record the Amendment Agreement and Assumption submitted with this letter and cross index said document under the names of the Lessee, the Trustee-Lessor, SSI Rail Corp. and the Sublessees named in Exhibit A attached hereto.

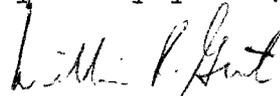
The equipment covered by the document hereby submitted for recordation consists of the following:

Four hundred (400) 50'6" Boxcars, AAR Designation XM, bearing Road Numbers APA 1700-1799, both inclusive, ASAB 7100-7149, both inclusive, ASAB 8000-8049, both inclusive, and MDW 10000-10199, both inclusive.

There is also enclosed a check for \$10 payable to the Interstate Commerce Commission representing the fee for recording the Amendment Agreement and Assumption pursuant to 49 CFR 1116.1.

Please stamp all five counterparts of the enclosed document and the three attached copies of this transmittal letter with your official recording stamp. You will wish to retain two copies of the instrument and the original of this transmittal letter for your files. It is requested that the four remaining counterparts of the document and the three copies of this transmittal letter be delivered to the bearer of this letter.

Very truly yours,



William R. Giusti

Office of the Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

77A

BY HAND

RECORDATION NO. 8578-A Filed & Recorded

JAN 3 1978 -4 22 PM

INTELLIGENCE COMMISSION

Amendment Agreement and Assumption (hereinafter called this Amendment) dated as of December 15, 1977, between ITEL CORPORATION, a Delaware corporation (hereinafter called ITEL), acting through its Rail Division, and FIRST SECURITY BANK OF UTAH, National Association, not in its individual capacity but solely as Owner-Trustee (hereinafter called the Owner-Trustee) under two separate Trust Agreements and a Restated Trust Agreement (hereinafter called collectively the Trust Agreements and severally the Trust Agreement) dated as of August 15, 1976, October 15, 1976, and November 15, 1976, respectively, with Borg-Warner Leasing Corporation, Union Safe Deposit Bank and FMC Finance Corporation, respectively (hereinafter called collectively the Owners and individually the Owner).

WHEREAS SSI Rail Corp. (hereinafter called SSI) and the Owner-Trustee have heretofore entered into two separate Equipment Leases and a Restated Equipment Lease (hereinafter called collectively the Agreements and severally the Agreement) dated as of August 15, 1976, October 15, 1976, and November 15, 1976, respectively, pursuant to which SSI is

leasing from the Owner-Trustee certain units of railroad equipment described in Schedule A to each Agreement (such equipment leased under the Agreements being hereinafter called collectively the Trust Equipment), and is obligated under each Agreement to pay to the Owner-Trustee certain rentals therefor and to perform and observe certain terms, covenants and conditions thereof;

WHEREAS SSI has entered into certain subleases, more particularly described in Exhibit A attached hereto (hereinafter called the Subleases), pursuant to which SSI is subleasing the units of Trust Equipment to certain short-line railroads;

WHEREAS the Owner-Trustee and Harris Trust and Savings Bank (hereinafter called the Trustee) have heretofore entered into three separate Security Agreements-Trust Deeds (hereinafter called collectively the Security Documents and severally the Security Document) dated as of August 15, 1976, October 15, 1976, and November 15, 1976, respectively, pursuant to which 10-3/4% Secured Notes have been issued (such Secured Notes issued pursuant to the Security Documents being hereinafter called collectively the Notes);

WHEREAS, pursuant to three separate Participation Agreements (hereinafter called collectively the Participa-

tion Agreements and severally the Participation Agreement) dated as of August 15, 1976, October 15, 1976, and November 15, 1976, respectively, each being among SSI, ITEL, the respective Owner which entered into the Trust Agreement dated as of the date of such Participation Agreement, the Trustee, the Owner-Trustee and The Travelers Insurance Company (hereinafter called the Purchaser), the Purchaser has purchased Notes in the aggregate principal amount as provided in the Participation Agreements;

WHEREAS SSI has heretofore entered into a separate Indemnity Agreement with each of the Owners (hereinafter called collectively the Indemnity Agreements and severally the Indemnity Agreement) dated as of the date of the Trust Agreement executed by such Owner, pursuant to which SSI has agreed to indemnify such Owner under certain circumstances against the loss of certain tax benefits contemplated to accrue to such Owner by reason of its participation in the transactions contemplated by the Trust Agreement to which such Owner is a party;

WHEREAS ITEL has heretofore executed and delivered a Guaranty Agreement with respect to each Agreement and Indemnity Agreement (hereinafter called collectively the Guaranty Agreements and severally the Guaranty Agreement) dated as of the date of such Agreement and Indemnity

Agreement;

WHEREAS ITEL intends to merge SSI into itself pursuant to a Certificate of Ownership and Merger dated as of December 15, 1977 (hereinafter called the Plan);

WHEREAS, pursuant to an Amendment Agreement (hereinafter called the Participation Agreement Amendment) dated as of the date hereof, between The Travelers Life and Annuity Company, the holder as of the date hereof of each outstanding Note (hereinafter called the Holder), and ITEL, certain restrictions contained in Sections 5.12 and 6.1 of each Participation Agreement are being waived by the Holder so as to permit SSI to be merged into ITEL, subject to the execution and delivery by (a) ITEL and the Owner-Trustee of this Amendment, (b) ITEL of the Participation Agreement Amendment and (c) the Trustee and the Owner-Trustee of an Amendment Agreement (hereinafter called the Security Document Amendment) dated as of the date hereof, pursuant to which certain provisions of each Security Document are amended (the time as of which (i) the merger of SSI into ITEL shall have become effective pursuant to the Plan and (ii) this Amendment, the Participation Agreement Amendment and the Security Document Amendment shall have been executed and delivered by the appropriate parties being hereinafter called the Effective Time of Merger);

WHEREAS the parties hereto desire by this Amendment

to amend and supplement certain provisions of each Agreement and to provide for the assumption by ITEL of the due and punctual performance and observance of all the terms, covenants and conditions of and the due and punctual payment of all amounts payable under each of (a) the Participation Agreements as amended by the Participation Agreement Amendment, (b) the Agreements as amended by this Amendment, (c) the Indemnity Agreements and (d) the Subleases (such agreements being hereinafter called collectively the Operative Agreements) in like manner as if ITEL were named therein in lieu of SSI;

WHEREAS all requirements of law and of the Certificate of Incorporation and By-laws of ITEL and of the Participation Agreements, the Agreements and the Security Documents have been complied with and all things necessary to make this Amendment a valid and binding agreement have been done and performed; and

WHEREAS each Agreement and Sublease was filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, all on the dates, and with the recordation numbers, as are set forth in respect thereof in Exhibit A attached hereto;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt of

which is hereby acknowledged, the parties hereto hereby agree as follows:

1. This Amendment shall not become effective until, and shall be effective forthwith upon, the Effective Time of Merger.

2. ITEL hereby assumes from and after the Effective Time of Merger the due and punctual performance and observance of all of the terms, covenants and agreements of and the due and punctual payment of all amounts payable under the Operative Agreements in like manner as if named therein in lieu of SSI.

3. Each Agreement is hereby amended by restating in its entirety the definition therein of "Lessee" to mean ITEL Corporation, a Delaware corporation, acting through its Rail Division, as successor in interest to SSI Rail Corp. under such Agreement, and its successor or successors complying with the provisions of Section 17.3 of such Agreement and Section 5.9 of the Participation Agreement. All references in each Agreement to "Participation Agreement" shall be deemed to include all amendments thereto, including the Participation Agreement Amendment.

4. Section 14 of each Agreement is hereby amended by restating the first paragraph thereof, up to the portion thereof commencing (on page 16 of the Agreement dated as of

August 15, 1976, on page 19 of the Agreement dated as of October 15, 1976, and on page 20 of the Agreement dated as of November 15, 1976) with the words "then, in any such case, the Lessor at its option, may:", to read as follows:

"14.1. Events of Default. If, during the continuance of this Lease, one or more of the following events ("Events of Default") shall occur:

"(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 or Section 11 hereof and such default shall continue for five calendar days; or

"(b) Any material representation or warranty made by SSI Rail Corp. or the Lessee herein or in the Participation Agreement or in any statement or certificate furnished to the Lessor or its assigns pursuant to or in connection with this Lease or the Participation Agreement proves untrue in any material respect as of the date of issuance or making thereof; or

"(c) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Equipment, or any portion thereof; or

"(d) Default shall be made in the observance

or performance of any other of the covenants and agreements on the part of the Lessee contained herein or in Section 5 of the Participation Agreement and any such default shall continue for thirty (30) days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

"(e) The Lessee or any Subsidiary (as defined in the Participation Agreement) shall default in the payment of any Indebtedness (as defined in the Participation Agreement, except that, for purposes of this Section 14.1(e), there shall be included in the computation of Indebtedness any indebtedness of an Unrestricted Subsidiary (as defined in the Participation Agreement) similar to the indebtedness included in the computation of Indebtedness under Section 5.1 of the Participation Agreement) or any rentals or other obligations payable under any agreement described in Section 5.7(a)(6) of the Participation Agreement (or any similar agreement in the case of an Unrestricted Subsidiary) (other than Indebtedness, rentals or other obligations payable under this Lease) beyond any period of grace provided with respect

thereto, or shall default in the performance of any other agreement, term or condition contained in any agreement under which any such obligation is created, and (i) the effect of such default, if it occurs prior to the stated maturity or scheduled date for the payment thereof, is to cause, or to permit the holder or holders of such obligation (or a trustee on behalf of such holder or holders) to cause, (a) Indebtedness, such rentals or other obligations to become due prior to the stated maturity or scheduled date for the payment thereof or (b) such agreement to be terminated; (ii) the aggregate principal amount of (a) Indebtedness, rentals and other obligations with respect to the payment of which the Lessee or any Subsidiary is so in default and (b) Indebtedness, rentals and other obligations which are or may then be so accelerated exceeds 10% of the aggregate principal amount of all Consolidated Funded Debt (as defined in the Participation Agreement) at the time outstanding and (iii) such default is not cured within 30 days after such event would, but for this clause (iii), constitute an Event of Default hereunder; or

"(f) The Lessee becomes insolvent or bankrupt

or admits in writing its inability to pay its debts as they may mature, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee or receiver for the Lessee or for the major part of its property; or

"(g) A trustee or receiver is appointed for the Lessee or for the major part of its property and is not discharged within sixty (60) days after such appointment; or

"(h) Any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed

in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings, in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such appointment, if any, or 90 days after such proceedings shall have been commenced, whichever shall be earlier;".

5. Section 21.1 of each Agreement is hereby amended by restating the address for notices required or permitted to be given by the Owner-Trustee to ITEL under such Agreement as follows:

"If to the Lessee:

Itel Corporation, Itel Rail Division,
Two Embarcadero Center
San Francisco, California 94111.

Attention of President".

6. Each Guaranty Agreement and all references thereto in the Agreements shall cease to be of any force or effect from and after the Effective Time of Merger.

7. ITEL represents and warrants as follows:

(a) ITEL has full power, authority and legal right

to execute and deliver this Amendment and to perform and observe the terms and conditions hereof and of the Operative Agreements as herein contemplated.

(b) The execution and delivery by it of this Amendment, the consummation of the transactions contemplated herein and in the Operative Agreements and the fulfillment of the terms hereof and thereof and the compliance by it with the terms and provisions hereof and thereof will not result in any violation of its corporate charter or by-laws or in any breach of any applicable law, or any regulation, order, injunction or decree of any court or governmental instrumentality or of any of the terms, conditions or provisions of, or constitute a default under, or with notice or lapse of time, or both, constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any of its property or assets pursuant to, any indenture, agreement or other instrument to which it is party or by which it may be bound.

(c) No authorization or approval of any governmental agency or commission or public or quasi-public body or authority of the United States of America, any state thereof or the District of Columbia, or of any department or subdivision of any thereof, is necessary

for the due execution and delivery by it of this Amendment or for the validity of this Amendment or for the validity or enforceability of any of the Operative Agreements as against ITEL.

8. ITEL shall deliver or cause to be delivered to the Trustee and the Owner-Trustee an opinion of Messrs. Brobeck, Phleger & Harrison, special counsel for ITEL, addressed to the Trustee, the Holder and the Owner-Trustee, and dated as of the Effective Time of Merger, to the effect that:

(a) ITEL is duly organized, validly existing and in good standing under the laws of the state of its incorporation.

(b) This Amendment has been duly authorized, executed and delivered by ITEL and constitutes a valid and binding obligation of ITEL.

(c) The obligations of SSI under the Operative Agreements have been duly assumed by ITEL and constitute valid and binding obligations of ITEL enforceable in accordance with the terms of the Operative Agreements (subject, as the enforcement of remedies, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect).

(d) No authorization or approval of any governmental agency or commission or public or quasi-public body or authority of the United States of America, any state thereof or the District of Columbia, or of any department or subdivision of any thereof, is necessary for the due execution and delivery by ITEL of this Amendment or for the validity of this Amendment or for the validity or enforceability of any of the Operative Agreements as against ITEL or for any other action on the part of ITEL contemplated by this Amendment or the Operative Agreements.

(e) All action required by law or by the Plan to be taken by ITEL at or prior to the merger of SSI into ITEL, and all action required by law or the Operative Agreements to be taken in connection with the execution and delivery of this Amendment, has been duly and validly taken. No other approvals, consents or waivers in respect thereof are known to such counsel to be required.

(f) ITEL is entitled to the full benefit of each Sublease in like manner as if ITEL were named therein in lieu of SSI.

In rendering the foregoing opinion, counsel may assume the due execution and delivery of this Amendment by the Owner-Trustee.

9. The Owner-Trustee represents and warrants that it has full power and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Amendment and the Security Document Amendment, and to perform and observe the terms and conditions hereof and thereof and of the Operative Agreements to which it is a party and the Security Documents as amended by the Security Document Amendment as herein and therein contemplated.

10. The Owner-Trustee shall deliver or cause to be delivered to ITEL and the Trustee an opinion of Messrs. Ray, Quinney and Nebeker, special counsel for the Owner-Trustee, addressed to ITEL, the Trustee and the Holder, and dated as of the Effective Time of Merger, to the effect that:

(a) This Amendment and the Security Document Amendment have been duly authorized, executed and delivered by the Owner-Trustee and constitute valid and binding obligations of the Owner-Trustee.

(b) No authorization or approval from (i) any governmental or public body or authority of the State of Utah or (ii) any governmental or public body or authority of the United States of America governing the banking or trust powers of the Owner-Trustee is, to the knowledge of said counsel, necessary for the execution, delivery and performance by the Owner-

Trustee of this Amendment and the Security Document Amendment or for the performance by the Owner-Trustee of the Operative Agreements to which it is a party and the Security Documents as amended by the Security Document Amendment.

11. ITEL shall, promptly after the execution and delivery of this Amendment and the Security Document Amendment, cause the same to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and with such other offices pursuant to such other statutes as required under Section 2.5 of each Security Document.

ITEL shall furnish to the Trustee, the Holder and the Owner-Trustee promptly after such filing and recording evidence thereof and an opinion of counsel for ITEL with respect thereto, as set forth in Section 2.5 of each Security Document, satisfactory to the Trustee, the Holder and the Owner-Trustee.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed hereto and duly attested, all as of the

date first above written.

ITEL CORPORATION, acting through
its Rail Division,

by



Vice President,
Rail Division

[Corporate Seal]

Attest:



Assistant Secretary

FIRST SECURITY BANK OF UTAH, National
Association,
not in its individual capacity
but solely as Owner-Trustee,

by



Authorized Officer

[Seal]

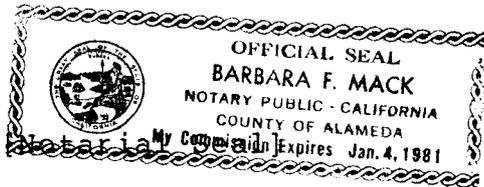
Attest:



Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
COUNTY OF SAN FRANCISCO,)

On this *29th* day of *December* 1977, before me personally appeared *Donald J. Fleam*, to me personally known, who, being by me duly sworn, says that he is a Vice President of ITEL CORPORATION, Rail Division, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and 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 acting through its Rail Division.



Barbara F. Mack

Notary Public

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this *28th* day of *December* 1977, before me personally appeared *DEBRA J. DORFMAN*, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, National Association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its By-Laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Debra J. Dorfman

Notary Public

[Notarial Seal]

My Commission Expires November 15, 1981

My Commission expires