

Countersigned David M. Delaney, Suburban & Woodley



NOV 22 1976
Date SEP 29 1976
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CC Washington, D.C.

September 29, 1976

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RECORDATION NO. _____ Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

Hon. Robert L. Oswald
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Sir:

Enclosed for filing with and recording by the Interstate Commerce Commission are one original and three(3) copies of a Lease Agreement dated as of June 22, 1976, between SSI Rail Corp., Two Embarcadero Center, San Francisco, California 94111, Lessor, and Minnesota, Dakota & Western Railway Company as Lessee, covering the following railroad equipment.

100, 70-Ton 50'-6" Single Sheath Box Cars with FreightMaster 10" End-of-Car Cushioning, Single 10' Single Plus Door and Nailable Steel Flooring.

200, 70-Ton 50'-6" Single Sheath Box Cars with FreightMaster 10" End-of-Car Cushioning, Nailable Steel Floor, with Combination 6' Plug Door and 10' Sliding Doors Centered on Car.

Identifying marks on all of the foregoing equipment:
The words, "Ownership subject to a security agreement filed under the Interstate Commerce Act, Section 20c" printed on each side of each unit.

Also enclosed is the Company's check in the sum of \$50.00, payable to the Interstate Commerce Commission, being the prescribed fee for filing and recording document.

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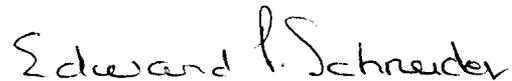
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Page 2

Hon. Robert L. Oswald

Please return the original and one of the enclosed copies with recordation data stamped thereon to the representative of the office of Sullivan and Worcester, Attorneys at Law, Washington, D.C., who will be delivering this letter on our behalf.

Very truly yours,

Handwritten signature of Edward P. Schneider in cursive script.

Edward P. Schneider
Director of Finance

EPS/jb
Encls:

Interstate Commerce Commission

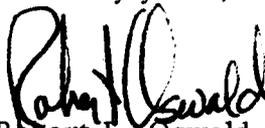
Washington, D.C. 20423
October 1, 1976

OFFICE OF THE SECRETARY

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **10/01/76** at **3:30 p. m.**, and assigned recordation number(s) **8501**

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

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(5/76)

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0501

REGISTRATION NO. Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

THIS LEASE AGREEMENT, made as of this 22nd day of June, 1976, among ITEL CORPORATION, a Delaware corporation, One Embarcadero Center, San Francisco, California, 94111 ("Itel"), SSI RAIL CORP., a Delaware corporation, Two Embarcadero Center, San Francisco, California 94111 ("SSI"), as Lessor, and MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY, a Minnesota corporation, One Jefferson Square, Boise, Idaho, 83728 ("Lessee"), as Lessee.

W I T N E S S E T H :

WHEREAS, SSI is in the business of leasing railroad equipment and the Lessee operates a railroad in the State of Minnesota;

WHEREAS, the Lessee requires the use of certain railroad equipment as herein set forth to furnish transportation services to its customers; and

WHEREAS, SSI proposes to lease to Lessee certain railroad equipment for a period of years as herein provided for;

NOW THEREFORE, SSI and the Lessee do hereby agree as follows:

1. Scope of Agreement

A. SSI agrees to lease to Lessee, and Lessee agrees to lease from SSI boxcars and other railroad equipment of the

types and descriptions as set forth in any lease schedules executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The word "Schedule" as used herein includes the Schedule or Schedules executed herewith and any additional Schedules and amendments thereto whether for boxcars or other railroad equipment, each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively the "Boxcars."

B. It is the intent of the parties to this Agreement that SSI shall at all times be and remain the lessor of all Boxcars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Boxcars as provided herein. The term of lease with respect to all of the Boxcars described on each Schedule shall be for fifteen years commencing upon the date when all Boxcars on such Schedule have been delivered as set forth in Section 3A hereof.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, it shall

automatically be extended for not more than five consecutive periods of twelve months each with respect to all of the Boxcars described on each Schedule, provided, however, SSI or Lessee may terminate this Agreement as to all, but not fewer than all, of the Boxcars on any such Schedule by written notice delivered to the other not less than twelve months prior to the end of the initial lease term or any extended lease term.

3. Supply Provisions

A. SSI will inspect each of the Boxcars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to SSI that the sample Boxcar which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment agreed to by Lessee. Upon such approval by Lessee and SSI's determination that the Boxcar conforms to the specifications ordered by SSI and to all applicable governmental regulatory specifications, and this Agreement has not been terminated, SSI will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Boxcars shall be deemed delivered to Lessee upon acceptance by SSI at the manufacturer's facility. The Boxcars shall be moved to Lessee's railroad line at no cost to Lessee as soon after acceptance of delivery by SSI as is consistent with mutual convenience and economy. Due to the

nature of railroad operations in the United States, SSI can neither control nor determine when the Boxcars leased hereunder will actually be available to Lessee for its use on its railroad tracks. To move the Boxcars to Lessee's railroad line and insure optimal use of the Boxcars after the first loading of freight for each Boxcar whether on the railroad line of Lessee or on any other railroad line selected by Lessee (the "initial loading"), SSI agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and SSI, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with Interstate Commerce Commission and AAR interchange agreements and rules; provided Lessee shall be primarily responsible for insuring all Boxcars arrive at Lessee's railroad tracks as soon as reasonably possible and shall bear all costs and expenses incurred in connection with such movement except for any costs or expenses required to move the Boxcars for loading on a railroad line selected by Lessee.

B. Lessee agrees that so long as it shall have on lease any Boxcars, it shall not lease boxcars from any other party (except from Boise Cascade Corporation or a subsidiary thereof) until it shall have received all of the Boxcars on the Schedule or Schedules attached hereto. Once Boxcars have been delivered to Lessee, it shall then not lease boxcars from any other party (except from Boise Cascade

Corporation or a subsidiary thereof) until it shall have given SSI at least three (3) months' prior written notice of its desire to lease boxcars similar to the type on lease and SSI shall then have the opportunity to procure and lease such boxcars to Lessee subject to the terms and conditions of this Agreement and manufacturer's delivery schedules and at terms not less favorable to Lessee than those offered by such other parties. The foregoing, however, shall not be deemed to prohibit Lessee from leasing from other parties if SSI does not offer lease terms equal to or better than those offered by such other parties. Lessee shall give preference to SSI and shall load the Boxcars leased from SSI prior to loading boxcars leased from other parties or purchased by Lessee subsequent to the date of this Agreement or interchanged with railroads; provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks, and provided further, Lessee shall not have to provide SSI Boxcars priority at the expense of unreasonably disrupting Lessee's normal operations.

C. Except as hereinafter provided, additional Boxcars may be leased from SSI by Lessee only upon the mutual agreement of the parties hereto; provided during the one year period after the execution of this Agreement, Lessee shall have the option at its discretion to lease an additional 100 cars as

more fully described in Schedule B. Upon such agreement to lease Boxcars in Schedule B or any other Schedule, such additional Boxcars are or shall be identified in Schedules to this Agreement and shall benefit from and be subject to this Agreement upon execution of the Schedules by SSI and Lessee. Notwithstanding the execution of any Schedules, the delivery of Boxcars to Lessee shall be subject to manufacturer's delivery schedules, financing satisfactory to SSI and the mutual acknowledgment of the parties that the addition of such Boxcars is not likely to reduce utilization of all Boxcars on lease to Lessee to less than 87.5 percent in any calendar quarter; provided SSI guarantees to deliver to the Lessee 300 Boxcars as set forth in Schedule A subject to only the manufacturer's delivery schedule.

4. Railroad Markings and Record Keeping

A. SSI and Lessee agree that on or before delivery of any Boxcars to Lessee, said Boxcars will be lettered with the railroad markings of Lessee and may also be marked with the name and other insignia used by Lessee. Such name and insignia shall comply with all applicable regulations.

B. At no cost to Lessee, SSI shall during the term of this Agreement prepare for Lessee's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Boxcars. Such documents shall include but are not limited to the following:

(i) appropriate AAR documents including an application for relief from AAR Car Service Rules 1 and 2; (ii) registration

in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the Interstate Commerce Commission and other regulatory agencies.

C. Each Boxcar leased hereunder shall be registered at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. SSI shall, on behalf of Lessee, perform all record keeping functions related to the use of the Boxcars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation. Correspondence from railroads using such Boxcars shall be addressed to Lessee at such address as SSI shall select and to which Lessee shall consent in writing.

D. All record keeping performed by SSI hereunder and all record of payments, charges and correspondence related to the Boxcars shall be separately recorded and maintained by SSI in a form suitable for reasonable inspection by Lessee from time to time during regular SSI business hours. Lessee shall supply SSI with such reports, including daily reports of the number of Boxcars on Lessee's tracks and use of the Boxcars by Lessee on its railroad line as SSI may reasonably request.

E. The Lessee shall have the right as provided for in Section 5 upon two months notice to SSI to perform all of the record keeping function mentioned in this section and to

receive as consideration for performing the aforementioned record keeping function a reduction of one percent in the utilization rate as hereafter defined.

5. Lessee's Assumption of Record Keeping and Receipt of Rental Charges

A. At any time during the term of this Agreement at its sole discretion Lessee may if it shall reasonably determine that SSI has not performed its record keeping in an accurate and prompt manner upon prior written notice to SSI, take over and assume from SSI as soon as is practicable but in no event later than two months after receipt of notice by SSI, all record-keeping functions, record of payments, charges and correspondence related to the use of the Boxcars. In addition, upon the giving of the notice provided for above, the parties will, as soon as practicable but in no event later than two months, make arrangements for the receipt of Rental Charges by Lessee rather than SSI, it being understood that upon receipt of such Rental Charges by Lessee, Section 7.B of the Agreement will automatically be deemed to be revised to read as follows:

"B. The calculations required above shall be made within three months after the end of each calendar year. However, since the parties desire that rental payments be made currently so that SSI may meet its financial commitments, Lessee shall remit to SSI on the first business day of each month, the full amount of

all payments received by Lessee (less any deduction authorized to be made by Lessee under the terms of this Agreement) during the next preceding calendar month from any car hire settlement with respect to any Boxcar leased hereunder. Following the yearly calculation, one-half of any amount paid to SSI in excess of the SSI Base Rental shall be deducted by Lessee from subsequent Rental Charges."

6. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, SSI will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Boxcars during its lease term and any extension thereof, including but not limited to repairs, maintenance and servicing, unless the same was occasioned by the fault of Lessee while such Boxcar is in the physical possession of Lessee. Lessee shall inspect all Boxcars interchanged to it to insure that such Boxcars are in good working order and condition and shall be liable to SSI for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to SSI for and during the lease term of each Boxcar all of its right, title and interest in any warranty in respect to the Boxcars except for the Lessee's right to recover any damages from the manufacturer of the Boxcars that arise directly or indirectly as a result of a loss to cargo being transported in the Boxcars. All claims or

actions on any warranty so assigned shall be made and prosecuted by SSI at its sole expense and Lessee shall have no obligation to make any claim on such warranty; provided Lessee retains the right to prosecute any claim against a manufacturer for product defect if the Lessee claims damages arising from loss to cargo transported in the Boxcars. Any recovery under such warranty shall be payable solely to SSI except as to any action brought by Lessee to recover for claims arising from damages to cargo carried in the Boxcars. Only for purposes of Section 6.A, the railroad car manufacturer shall include both the original maker of the car and any person who repairs or rebuilds a Boxcar during the term of this Agreement or any extension thereof.

B. Except as otherwise provided, SSI shall make or cause to be made such inspections of, and maintenance and repairs to, the Boxcars as may be required. Upon request of SSI, Lessee shall, to the extent it is capable of repairing Boxcars, perform any necessary maintenance and repairs to Boxcars on Lessee's railroad tracks as may reasonably be requested by SSI. SSI shall also make, at its expense, all alterations, modifications or replacement of parts, as shall be necessary to maintain the Boxcars in good operating condition throughout the term of the lease of such Boxcars. Lessee may make running repairs to facilitate continued immediate use of a Boxcar, but shall not otherwise make any repairs, alterations, improvements or additions to the

Boxcars without SSI's prior written consent. If Lessee makes an alteration, improvement or addition to any Boxcar without SSI's prior written consent, Lessee shall be liable to SSI for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with SSI.

C. Lessee will at all times while this Agreement is in effect be responsible for the Boxcars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules--Freight for cars not owned by Lessee on Lessee's railroad tracks. Lessee shall protect against the consequences of an event of loss involving the Boxcars while on Lessee's railroad tracks by either obtaining insurance or maintaining a self insurance program which conforms to sound actuarial principles and Lessee shall provide SSI with a certificate of insurance with respect to such insurance carried on the Boxcars 30 days prior to the delivery of any Boxcar and thereafter at intervals of not more than twelve calendar months at SSI's request. If Lessee elects to replace SSI's insurance on any Boxcars while not on Lessee's tracks, Lessee shall furnish SSI concurrently with the execution of any schedule or upon Lessee's election to replace such insurance, an insurance certificate acceptable to SSI for Boxcars listed on such schedule or for the Boxcars upon which the Lessee elects to

replace SSI's insurance. In the event Lessee provides its own insurance for Boxcars off Lessee's tracks acceptable to SSI, the utilization rate shall be reduced by a mutually agreed upon percentage in recognition of Lessee absorbing the insurance expense borne by SSI. All insurance shall be taken out in the name of Lessee and SSI (or its assignee) as their interests may appear.

D. SSI agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Boxcar and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Boxcar to Lessee or which may be accrued, levied, assessed or imposed during the lease term, except taxes on income imposed on Lessee and sales or use taxes imposed on the mileage charges and/or car hire revenues; provided, SSI shall pay a portion of all income, sales, use, gross receipts, or other tax levied against the gross amount of payments (as hereinafter defined) equal to the amount of the tax times a fraction, the numerator of which is the total payments received in a year by SSI and the denominator of which is the total payments received in each year by the Lessee. SSI shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee and such sales or use tax payments shall not be "payments" as hereinafter defined. SSI and Lessee will comply with all state and local laws requiring the

filing of ad valorem tax returns on the Boxcars. The Lessee shall provide SSI, not later than ten days prior to filing any sales, use or other tax return, with relevant information from the Lessee's proposed sales, use or other tax returns and obtain SSI's consent prior to the payment of any taxes on account of the Boxcars and further SSI shall pay all penalties plus interest resulting from its failure to consent on a timely basis.

7. Lease Rental

A. Lessee agrees to pay the following as rent to SSI for the use of the Boxcars and SSI agrees to accept the following as rent on the Boxcars:

(i) Subject to adjustments for the Lessee providing insurance and accounting for the Boxcars, SSI shall receive on Lessee's behalf all payments made to Lessee by other railroad companies for their use or handling of the Boxcars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "payments") if the utilization of all of the Boxcars delivered to Lessee on an aggregate basis for each calendar year shall be equal to or less than 90 percent. For the purpose of this Agreement, utilization of the Boxcars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar

year that car hire payments are earned by Lessee on the Boxcars, commencing from the initial loading, and the denominator of which is the aggregate number of days in each year that the Boxcars are on lease to Lessee, commencing from the initial loading (such term referred to as "utilization").

(ii) In the event utilization exceeds 90 percent in any calendar year, SSI shall receive an amount equal to the SSI Base Rental plus an amount equal to one-half of the payments earned in excess of the SSI Base Rental. For purposes hereof SSI Base Rental shall be an amount equal to the total payments for the calendar year multiplied by a fraction, the numerator of which is 90 percent and the denominator of which is the utilization for such calendar year. (The above determination of SSI Base Rental insures that Lessee will, if utilization is greater than 90 percent in any calendar year, receive one-half of all the payments made by other railroads for use or handling of the Boxcars in excess of the SSI Base Rental.)

(iii) The rental charges payable to SSI by Lessee shall be paid from the payments received by Lessee in the following order until SSI receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges and (4) other. Such rental charges shall not be cumulative from year to year.

(iv) In the event damage or destruction of a Boxcar has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules--Freight and the appropriate amount due as a result thereof is received by SSI, said damaged or destroyed Boxcar will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within three months after the end of each calendar year. To enable SSI to meet its monthly financial commitments, SSI may obtain, prior to such calculations 93 percent of the payments received by it on behalf of Lessee; provided all payments received by SSI in the Lessee's behalf shall be deposited in the bank account established by the Lessee for the purpose of receiving payments; and provided further, SSI shall render to the Lessee a monthly statement of all funds withdrawn from Lessee's bank account. Since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due SSI, SSI shall within three months after the end of each calendar quarter, calculate on a quarterly basis rather than a yearly basis the amount due it pursuant to this section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that following the yearly calculation, any amount paid to either party in

excess of the amounts required by the yearly calculation shall be promptly refunded to the appropriate party.

C. Lessee may at its option open a bank account with Bank of America National Trust and Savings Association, Bank of America Center, San Francisco, California, 94104 for accumulating and disbursing lease payments under this Agreement. Lessee agrees to give the sole power to withdraw money from the foregoing bank account to SSI. SSI agrees that the entire balance of the bank account shall be used exclusively by Lessee or Boise Cascade Corporation and any subsidiary thereof as compensatory balances to the extent the rental payments accumulate in the bank account, provided this section shall not limit SSI's right to withdraw up to 93 percent of the rentals pursuant to Section 7.B. In the event Lessee exercises its option under Section 5.A, Lessee may select any bank in the United States and shall have the sole power in accordance with this Agreement to withdraw money from any bank account created or existing for accumulating and disbursing lease payments under this Agreement.

D. In the event utilization in any calendar quarter is less than 87.5 percent, SSI may, at its option and upon not less than 30 days prior written notice to Lessee, terminate this Agreement as to such Boxcars as SSI shall determine; provided Lessee shall have the option at the Lessee's sole discretion to pay SSI a sum of money equal to the rent lost

by SSI as a result of the Boxcars failing to maintain a utilization rate of 87.5 percent and SSI shall after such payment not terminate this agreement until such time as the utilization rate at the end of a subsequent quarter is less than 87.5 percent:

E. SSI may, at its option, terminate this Agreement if the Interstate Commerce Commission shall, at any time, issue an order reducing incentive car hire for Boxcars on an annual basis to three months or less without a corresponding increase in straight car hire or other monies available to both SSI and Lessee at least equal in amount to such reduction. SSI or Lessee may, at its option, terminate this Agreement if the Interstate Commerce Commission shall either determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or require that Lessee spend funds not earned by the Boxcars in order for Lessee to continue to meet its obligations set forth in this section. Lessee may, in any event, terminate this Agreement if for any reason governmental regulations or orders prohibit the Lessee from making the payments described in Section 7.

F. Subsequent to the initial loading, if any Boxcar remains on Lessee's railroad tracks for more than seven consecutive days, SSI may, at its option and upon not less than 24 hours prior written notice, terminate this Agreement as to such Boxcar and withdraw such Boxcar from Lessee's

railroad tracks. If any such Boxcar remains on Lessee's railroad tracks more than seven consecutive days because Lessee has not given preference to the Boxcars as specified in Section 3.B, Lessee shall be liable for and remit to SSI an amount equal to the car hire revenues Lessee would have earned if such Boxcars were in the physical possession and use of another railroad for the entire period.

G. If Lessee gives SSI notice of a strike at International Falls, Minnesota or at Fort Frances, Ontario, Canada, this Agreement shall not be terminated unless the utilization rate computed for a three month period commencing one month after the strike occurs shall be less than 87.5 percent and the Lessee does not choose to exercise its option as provided in Section 7.C; provided Lessee will use its best efforts to obtain maximum utilization during the period of any such strike. In computing such utilization rate SSI may terminate this Agreement after giving the Lessee the right to exercise its option under Section 7.C if at any time following the strike date until the strike terminates the number of days that the Boxcars have not earned car hire payments is such as to make it mathematically certain that the utilization cannot be equal to or greater than 87.5 percent.

8. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with

the terms of this Agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business. However, Lessee's rights shall be subject to the rights of any owner or secured party under any financing agreement entered into by SSI in connection with the acquisition of Boxcars, i.e., upon notice to Lessee from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party or that the Boxcars be returned to such party pursuant to the terms and conditions of this Agreement. SSI shall provide the Lessee at the date of execution of this Agreement or at such date as financing is arranged conformed copies of all financing agreements and Exhibits thereto. SSI and the Lessee agree that to the extent they have physical possession and can control use of the Boxcars, the Boxcars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either SSI or Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Boxcars or any interest therein or in this Agreement or Schedule thereto. If any creditor of the Lessee or Boise Cascade Corporation or a subsidiary thereof files a mortgage, pledge, lien, charge, encumbrance, security interest, or any claim against the Boxcars, the Lessee will promptly, at its expense, take such action as may be necessary to duly discharge such encumbrance.

9. Default

A. The occurrence of any of the following events shall be an event of default:

(i) The nonpayment by Lessee or SSI of any payment ten days after SSI has given the Lessee a notice that a payment pursuant to this Agreement is delinquent;

(ii) The breach by Lessee or SSI of any other term, covenant, or condition of this Agreement, which is not cured within ten days after notice has been given the Lessee or SSI;

(iii) Any act of insolvency by Lessee or SSI, or the filing by Lessee or SSI of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors;

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee or SSI that is not dismissed within sixty days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee or SSI, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty days from the date of said filing or appointment;

(v) The subjection of substantially all of Lessee's or SSI's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency; or

(vi) Except as a result of a strike or other Act or Acts beyond Lessee's control, any action by Lessee to discontinue rail service on all or a portion of its tracks or abandon any of its rail properties pursuant to applicable provisions of the Interstate Commerce Act or the laws of any state.

B. Upon the occurrence of any event of default, SSI or the Lessee may, at its option, terminate this Agreement and may

(i) Proceed by any lawful means to enforce performance by the other party to this Agreement or to recover damages for a breach thereof (and the defaulting party agrees to bear the other party's costs and expenses, including reasonable attorneys' fees, in securing such enforcement), or

(ii) By notice in writing to the defaulting party, terminate the Lessee's right of possession and use of the Boxcars, whereupon all right and interest of Lessee in the Boxcars shall terminate and thereupon the Lessee shall render such reasonable cooperation as shall be reasonably requested by SSI to give SSI possession and enjoyment of the Boxcars. SSI shall nevertheless have the right to recover from Lessee any and all rental amounts which under the terms of this Agreement may then be due or which may have accrued to that date.

10. Termination

At the expiration or termination of this Agreement as to any Boxcars, Lessee will surrender control of such Boxcars to SSI. A Boxcar shall be no longer subject to this Agreement upon the removal of Lessee's railroad reporting marks from the Boxcar and the placing thereon of such marks as may be designated by SSI, either, at the option of SSI, (1) by Lessee upon return of such Boxcars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Boxcar at the time of or subsequent to termination of the lease term as to such Boxcar. If such Boxcars are not on the railroad line of Lessee upon termination, any cost of removing Lessee's railroad reporting marks, assembling, delivering, storing, and transporting such Boxcars to Lessee's railroad line or the railroad line

of a subsequent lessee shall be borne by SSI. If such Boxcars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense within five working days remove Lessee's railroad reporting marks from the Boxcars and place thereon such reporting marks as may be designated by SSI. After the removal and replacement of reporting marks, Lessee shall use its best efforts to load such Boxcars with freight and deliver them to a connecting carrier for shipment. Lessee shall provide to the extent Lessee has available storage space up to thirty days free storage on its railroad tracks for SSI or the subsequent lessee of any terminated Boxcar.

11. Indemnities

A. Except for risks assumed by Lessee if it obtains insurance on any Boxcar while not on Lessee's tracks as set forth in Section 6.C, SSI will defend, indemnify and hold Lessee harmless from and against (1) any and all loss or damage of or to the Boxcars, usual wear and tear excepted, unless occurring while Lessee has physical possession of Boxcars and (2) any claim, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the Boxcars other than loss or physical damage (unless occurring through the fault of Lessee), including without limitation the construction, purchase and delivery

of the Boxcars to Lessee's railroad line, ownership, leasing or return of the Boxcars, or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by SSI or Lessee).

B. Notwithstanding anything in this Agreement to the contrary, and in consideration of Lessee entering into this Agreement, Itel, upon termination of this Agreement for any reason and in the event of SSI's failure to make full and prompt payment of its obligations hereunder or completely perform all of its other obligations hereunder for a period of sixty days after SSI's receipt of a written request from Lessee so to do, hereby guarantees full and prompt payment and complete performance of all of SSI's obligations under this Agreement. In connection with this guarantee of payment and performance, Itel represents, warrants and covenants to Lessee that Itel is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware with full power to execute and deliver this Agreement and the guarantee contained herein and to perform its obligations hereunder; that all such actions have been duly authorized by all necessary corporate action, are not in conflict with any provision of applicable law or regulation or the charter or by-laws of Itel or with any agreement to which Itel is a party; that Itel has complied with all applicable laws and

regulations, and has obtained all necessary governmental and regulatory authority, approvals and consents to enable Itel to perform its obligations hereunder; and that this Agreement and the guarantee are the legal and binding obligations of Itel.

C. Any expense of any kind whatsoever incurred by Lessee, which is required under the terms of this Agreement to be borne by SSI, shall be paid promptly by SSI to Lessee upon written request therefor by Lessee, including, but not limited to, costs, expenses, fees and charges relating to maintenance, repair or inspection performed on any railroad rolling stock which Lessee is required to perform or caused to have performed pursuant to governmental or AAR regulations as a result of this Agreement.

12. Representations, Warranties and Covenants

A. Lessee represents, warrants and covenants that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement;

(ii) The entering into and performance of this

Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Boxcars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound;

(iii) There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee;

(iv) There is no fact which Lessee has not disclosed to SSI in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligations under this Agreement; and

(v) Lessee has during the years 1964-1968 neither leased nor purchased any boxcars.

B. SSI represents, warrants and covenants that:

(i) SSI is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary and shall prior to the delivery of any Boxcars qualify to do business in the state of Minnesota;

(ii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to SSI, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of SSI or on the Boxcars to be acquired pursuant to this Agreement;

(iii) There is no action or proceeding or threatened against SSI before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of SSI; and

(iv) There is no fact which SSI has not disclosed to the Lessee in writing, nor is SSI a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the SSI

can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the SSI or the ability of the SSI to perform its obligations under this Agreement.

13. Conditions Precedent

The obligations of SSI and Lessee under this Agreement are subject to the delivery of the following opinions:

A. Lessee will give SSI an opinion of its counsel in a form satisfactory to SSI; and

B. SSI will give the Lessee an opinion of its counsel in a form satisfactory to the Lessee and the opinion of Sullivan & Worcester, counsel for SSI, stating whether this Agreement violates any rule or regulation of the Interstate Commerce Commission.

14. Inspection

After giving the Lessee reasonable notice, SSI shall at any time during normal business hours have the right to enter the premises where the Boxcars may be located for the purpose of inspecting and examining the Boxcars to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify SSI of any accident connected with the malfunctioning or operation of the Boxcars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons

injured and of witnesses, and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify SSI in writing within fifteen days after any attachment, tax lien or other judicial process shall attach to any Boxcar. Lessee shall furnish to SSI promptly upon its becoming available, a copy of its annual report submitted to the Interstate Commerce Commission and, when requested, copies of any other income or balance sheet statements required to be submitted to the Interstate Commerce Commission.

15. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not without the prior written consent of SSI assign this Agreement or any of its rights hereunder or sublease the Boxcars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of this Agreement.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Boxcars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing

herein shall be construed as conveying to Lessee any right, title or interest in the Boxcars except as a lessee only.

D. No failure or delay by SSI shall constitute a waiver or otherwise affect or impair any right, power or remedy available to SSI nor shall any waiver or indulgence by SSI or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. This Agreement shall be governed by and construed according to the laws of the State of Delaware.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above or as mutually agreed to by the parties to this Agreement.

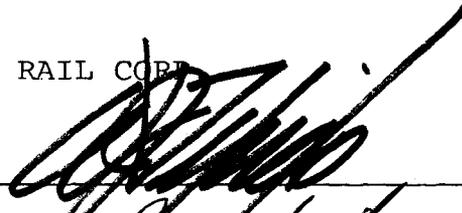
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ATTEST:



SSI RAIL CORP

BY



TITLE

President

MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY

ATTEST:

M. Jones
Assistant Secretary

BY *Robert M. Walters*
ITS Vice President

ITEL CORPORATION

ATTEST:

Hen. H. Hovento

BY *Robert M. Walters*
ITS Vice President

STATE OF California)
COUNTY OF San Francisco) ss.

On this 2nd day of ~~June~~ July, 1976, before me personally appeared William J. Texido ~~Herbert H. Elliott~~, to me personally known, who being by me duly sworn says that such person is President of SSI RAIL CORP., that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.



Terry L. Russell
Notary Public

STATE OF California)
COUNTY OF San Francisco) ss.

On this 2nd day of July, 1976, before me personally appeared HERBERT M. ELLIOTT to me personally known, who being by me duly sworn says that such person is VICE PRESIDENT FINANCE of ITEL CORPORATION, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Terri J. Stubblefield
Notary Public

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 22 day of June, 1976, before me personally appeared Robert W. Walters to me personally known, who being by me duly sworn says that such person is Vice President of MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marjorie Clark
Notary Public

SCHEDULE A

THIS SCHEDULE, made as of the 22nd day of June, 1976 between SSI RAIL CORP., a Delaware corporation, Two Embarcadero Center, San Francisco, California 94111 ("SSI") as Lessor and MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY, a Minnesota corporation ("Lessee") as Lessee.

W I T N E S S E T H:

WHEREAS, SSI and Lessee have executed a Lease Agreement dated June 22, 1976 (the "Agreement") whereby SSI agrees to lease to the Lessee certain equipment designated in schedules attached to the Agreement;

WHEREAS, the Lessee has agreed to lease from SSI pursuant to the Agreement three hundred Boxcars (as defined in the Agreement) and as set forth in Schedule A to the Agreement;

NOW THEREFORE, SSI and the Lessee do hereby agree as follows:

1. Boxcars: SSI will use its best efforts to obtain Boxcars which meet the following specifications and which are acceptable to the Lessee as provided for in the Agreement. SSI represents and warrants that it will obtain financing for all Boxcars listed in this Schedule prior to or on the date of deliver for the first Boxcar.

2. Specifications of the Boxcars: Unless the Lessee gives SSI written notice on or prior to September 1, 1976 to the contrary, SSI and the Lessee agree that the general specifications of the first three hundred Boxcars under this Agreement shall be as follows and Lessee shall consent to all detailed specifications submitted by SSI to the manufacturer:

- A. Each truck shall have a 70 ton capacity;
- B. Each Boxcar shall have 20 inches of car cushioning;
- C. Every Boxcar shall be of a single sheath, exterior post design;
- D. All Boxcars shall have the following interior dimensions:
 - (i) Length of 50 feet 7 inches;
 - (ii) Height of 11 feet 0 inches; and
 - (iii) Width of 9 feet 6 inches;
- E. Each Boxcar shall have the following interior anchor securements spaced one foot from the ceiling in each Boxcar:

(i) One vertical set of interior anchor
securments one and one-half feet
from the end of each Boxcar.

(ii) One vertical set at the mid-point
between the door and the end of the
Boxcar; and

(iii) One vertical set one-half foot from
each Boxcar's doorpost;

F. All Boxcar interiors shall be painted
with paint which shall be expressly approved
by Lessee;

G. All Boxcars shall have nailable steel floors
which shall be of the highest, standard strength;

H. All Boxcars shall be painted on the exterior
pursuant to Lessee's design and instructions
which shall be provided SSI as soon as possible;

I. All Boxcars provided for in this Schedule shall
all have doors 10 feet 6 inches high. Boxcars
with the following door configuration shall be
provided:

(i) Two hundred Boxcars with 6 foot plug
doors and 10 foot sliding doors with a
total width of 16 feet; and

(ii) One hundred Boxcars with 10 foot plug doors.

J. The manufacturer shall place in consecutive order a Minnesota, Dakota & Western railroad reporting mark on each Boxcar with single plug doors starting with the reporting mark of "MDW 9000" and ending with the reporting mark of "MDW 9099" and for the Boxcars with both plug and sliding doors the manufacturer shall place in consecutive order a Minnesota, Dakota & Western railroad reporting mark starting with the reporting mark of "MDW 10000" and ending with railroad reporting mark "MDW 10199".

3. Delivery: The delivery of Boxcars at Portland, Oregon shall commence on or about September 23, 1976.

4. Conflict of Terms: To the extent a provision of this Schedule is inconsistent with a section of the Agreement, this Schedule shall be controlling and the parties to the Agreement shall treat this Schedule as an amendment to the Agreement.

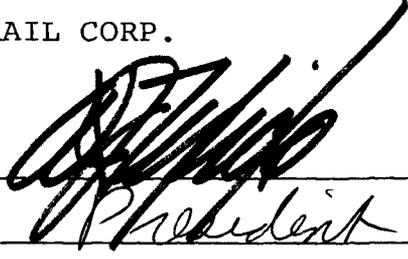
IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date first above written.

SSI RAIL CORP.

ATTEST:



BY



ITS

President

MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY

ATTEST:


Assistant Secretary

BY



ITS

SCHEDULE B

THIS SCHEDULE, made as of the 22nd day of June, 1976 between SSI RAIL CORP., a Delaware corporation, Two Embarcadero Center, San Francisco, California 94111 ("SSI") as Lessor and MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY, a Minnesota corporation ("Lessee") as Lessee.

W I T N E S S E T H:

WHEREAS, SSI and Lessee have executed a Lease Agreement dated June 22nd, 1976 (the "Agreement") whereby SSI agrees to lease to the Lessee certain equipment designated in schedules attached to the Agreement;

WHEREAS, the Lessee has agreed to lease from SSI pursuant to the Agreement three hundred Boxcars (as defined in the Agreement) and as set forth in Schedule A to the Agreement; and

WHEREAS, the Lessee and SSI have agreed that the Lessee shall have an option to lease certain Boxcars set forth on Schedule B,

NOW THEREFORE, SSI and the Lessee do hereby agree as follows:

1. Boxcars: SSI will use its best efforts to obtain Boxcars which meet the following specifications and which are acceptable to the Lessee as provided for in the Agreement.

- (ii) One vertical set at the mid-point between the door and the end of the Boxcar; and
 - (iii) One vertical set one-half foot from each Boxcar's doorpost;
- F. All Boxcar interiors shall be painted with paint which shall be expressly approved by Lessee;
 - G. All Boxcars shall have nailable steel floors which shall be of the highest, standard strength;
 - H. All Boxcars shall be painted on the exterior pursuant to Lessee's design and instructions which shall be provided SSI as soon as possible;
 - I. All Boxcars provided for in this Schedule shall all have doors 12 feet 0 inches high and all doors shall be plug doors which are 10 feet wide;
 - J. The manufacturer shall place in consecutive order a Minnesota, Dakota & Western railroad reporting mark on each Boxcar starting with the reporting mark of "MDW 11000 and ending with the reporting mark of "MDW 11099".

SSI represents and warrants that it will use its best efforts to obtain the necessary financing for the one hundred boxcars described below.

2. Manufacturer: SSI shall have the right to select the manufacturer for all Boxcars designated by this Schedule; provided, the MD&W shall consent to SSI's selection of a manufacturer.

3. Specifications of the Boxcars: Unless the Lessee gives SSI written notice to the contrary, SSI and the Lessee agree that the general specifications of each Boxcar to be leased pursuant to the Agreement and this Schedule shall be as follows:

- A. Each truck shall have a 100 ton capacity;
- B. Each Boxcar shall have 20 inches of car cushioning;
- C. Every Boxcar shall be of a single sheath, exterior post design;
- D. All Boxcars shall have the following interior dimensions:
 - (i) Length of 50 feet 7 inches;
 - (ii) Height of 12 feet 10 inches; and
 - (iii) Width of 9 feet 6 inches;
- E. Each Boxcar shall have the following interior anchor securements spaced one foot from the ceiling in each Boxcar:
 - (i) One vertical set of interior anchor securements one and one-half feet from the end of each Boxcar.

4. Additional Specifications: By written notice to SSI, Lessee reserves the right at or prior to the exercise of its option under the Agreement to alter, change, supplement, or modify any Boxcar specification as herein set forth or as hereafter altered, changed, supplemented or modified; provided, SSI reserves the right to approve any such alteration, change, supplement or modification.

5. Conflict of Terms: To the extent a provision of this Schedule is inconsistent with a section of the Agreement, this Schedule shall be controlling and the parties to the Agreement shall treat this Schedule as an amendment to the Agreement.

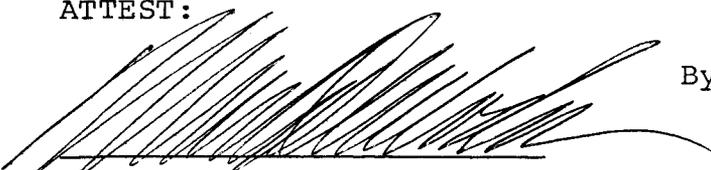
MINNESOTA, DAKOTA & WESTERN
RAILROAD COMPANY

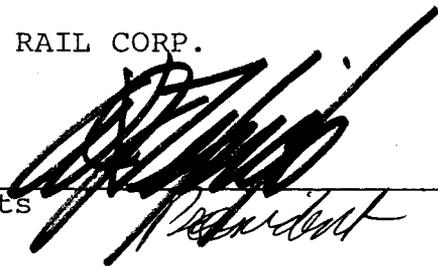
ATTEST:

By _____
Its

SSI RAIL CORP.

ATTEST:



By 
Its *President*

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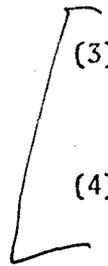
INTERSTATE COMMERCE COMMISSION

Amendment No. 1, dated as of June 22, 1976, to Lease Agreement (the "Agreement"), dated as of June 22, 1976, among Itel Corporation ("Itel"), SSI Rail Corp. ("SSI"), and Minnesota, Dakota & Western Railway Company ("Lessee").

Whereas, SSI, Itel, and Lessee have entered into an Agreement pursuant to which SSI has delivered 300 Boxcars to Lessee;

Now, therefore, the parties agree to amend the Agreement as follows:

- (1) All terms defined in the Agreement shall have the defined meanings when used in this Amendment.
- (2) A new Section 1(c) is added as follows:
 "SSI and Lessee agree that, as first user of the Boxcars, Lessee shall be entitled to claim the benefits of any available investment tax credits for federal income tax purposes in connection with the acquisition of 100 Boxcars bearing identifying marks MDW 9000-9099. SSI agrees that all Cars shall be new equipment when delivered to Lessee hereunder and further agrees to execute such documents and take such other action as may be reasonably requested by Lessee to permit Lessee to claim any available investment tax credits relating to the Boxcars under this Section 1(c)."
- (3) In Section 7(A)(i), "90 percent" shall be changed to "92.5 percent".
- (4) In Section 7(A)(ii), "90 percent" shall be changed to "92.5 percent" each time it appears.



(5) Except as expressly modified by this Amendment, all the terms and provisions of the Lease shall remain in full force and effect.

(6) This Amendment may be executed by the parties hereto in any number of counterparts, and all said counterparts taken together shall be deemed to constitute one and the same instrument.

In witness whereof, the parties have caused this Amendment to be duly executed as of the date first above written.

SSI RAIL CORP.

By _____

Title _____

[Signature]
PRESIDENT

MINNESOTA, DAKOTA & WESTERN RAILWAY CO.

By _____

Title _____

[Signature]
President

~~ITEL CORPORATION~~

By _____

Title _____

[Signature]
VICE PRESIDENT

STATE OF Idaho
COUNTY OF Franklin }

On this 7th day of Jan. 1977, before me personally appeared Robert H. Johnson to me personally known, who being by me duly sworn says that such person is President of M. V. S. W. Railway Co., that the foregoing Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Cecil Simpson
Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO }

On this 4th. day of January 1977., before me personally appeared William J. Texido., to me personally known, who being by me duly sworn says that such person is .President. of SSI Rail Corp., that the foregoing Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Terry L. Russell
Notary Public

