ITEL

Itel Rail Corporation
55 Francisco Street
San Francisco, California 94133
(415) 984-4000

RECORDATION NO. 15485 Filed 1425

JAN 26 1988 -3 [illegible] PM

INTERSTATE COMMERCE COMMISSION

No. 8-026A005

Date JAN 26 1988

Fee $ 10.00

ICC Washington, D.C.

January 5, 1988

Hon. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: Lease Agreement dated as of December 17, 1987, between Itel Rail Corporation and Canadian National Railway Corporation

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the $10 recordation fee.

Please record this Lease under a new recordation number.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Canadian National Railway Corporation (Lessee)
935 de Lagauchetiere St. W.
Montreal, Quebec
Canada H3B 2M9

This Lease covers four hundred fifty (450) boxcars bearing reporting marks CN 416450-416899.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

PS/ke

Enclosures

ICC OFFICE OF THE SECRETARY
JAN 26 2 59 AM '88
MOTOR OPERATIONS UNIT

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Patricia Schumacker
Itel Rail Corportation
55 Francisco Street
San Francisco, CA 94133

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/26/88 at 3:05PM, and assigned recordation number(s). 15149-B & C, 15483, 15484 & 15485

Sincerely yours,

Noreta R. McGee

Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 1 5485 Filed 1425

JAN 26 1988 -3 44 PM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

THIS LEASE AGREEMENT made as of December 17, 1987 between Itel Rail Corporation ("Lessor"), and CANADIAN NATIONAL RAILWAY COMPANY ("Lessee").

1. SCOPE

1.1 Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, four hundred and fifty (450) box cars as described in Exhibit A attached hereto. Said box cars shall be in AAR interchange condition and shall comply in all respects with the requirements and specifications set out in Exhibit A. Box cars subject to this Lease Agreement shall hereinafter be referred to as "Car(s)".

1.2 Subject to Paragraph 3.2, all Cars shall be delivered to Lessee by January 1, 1989, except as Lessor and Lessee may otherwise notify each other in writing.

2. TERM

Subject to the renewal and purchase options contained in Paragraphs 20 and 21, this Lease Agreement shall be for a term of years, hereinafter referred to as "Lease Year(s)", the first of which shall commence on the earlier of (i) the first day of the calendar month following the date on which the last Car is accepted hereunder pursuant to Paragraph 3.2 or (ii) January 1, 1989, (the "Commencement Date"), and the last of which shall terminate at the expiration of the tenth Lease Year. All of the terms and provisions of this Lease Agreement shall apply and be in full force and effect with respect to Cars accepted by Lessee prior to the Commencement Date.

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3. DELIVERY AND ACCEPTANCE

3.1 A sample of box cars contemplated for inclusion in this Lease Agreement has been pre-inspected by Lessee. Upon completion of the repairs contemplated under Exhibit A, Lessee shall individually inspect each box car so repaired at the applicable repair facility and may reject any thereof, by written notice to Lessor, only if any such box car is not in conformity with the requirements and specifications of Exhibit A. Failure of any particular box car to meet such specifications does not affect Lessee's obligation to accept delivery of each and every other box car which meets such specifications.

3.2 Acceptance of each Car or group of Cars by Lessee shall be evidenced by certificates of acceptance issued by a duly authorized representative of Lessee in the form attached as Exhibit B, herein referred to as "Certificate(s) of Acceptance", the issuance of which shall constitute conclusive evidence of acceptance of the Car(s) identified therein.

3.3 After acceptance of each Car pursuant to Paragraph 3.2, each Car shall be deemed to be delivered to Lessee at the time it is dispatched under load into the general rail system ("Delivery"). Lessor agrees to bear freight and transportation charges, if any. Lessor shall provide Lessee with written notice of such Delivery as soon as practicable prior thereto.

3.4 Lessor and Lessee shall cooperate with each other to facilitate acceptance and Delivery of Cars contemplated herein.

4. SUBSTITUTION OF CARS

4.1 Lessor shall have the right at any time and from time to time, upon at least sixty (60) days prior written notice to Lessee, to substitute one or more Cars with box cars that are similar in all respects including without limitation, type, design, dimension, age, condition and UMLER value,

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and that conform with requirements and specifications of Exhibit A; provided, however, that:

4.1.1 Such substitution shall be at the entire expense of Lessor including without limitation repair and domestication costs, both with respect to the Car being replaced and the substitute box car;

4.1.2 Such substitution shall take place on a mutually agreeable date and at mutually agreeable interchange points on Lessee's trackage in Canada.

4.2 As a pre-requisite to such substitution Lessee shall have the right to pre-inspect such substitute box cars at a mutually agreeable time and place and in mutually agreeable lot sizes to determine acceptability thereof, and to reject any such box cars which Lessee in its reasonable judgement finds unacceptable.

4.3 Notwithstanding the pre-inspection contemplated in Paragraph 4.2, such substitute box cars shall be subject to acceptance as provided in Paragraph 3.2, and if Lessee determines that any such box cars are not in conformity with the requirements of Paragraph 4.1, Lessee shall have the right to refuse acceptance thereof, and such box cars shall be removed by and at the expense of Lessor.

4.4 Acceptance of substitute box cars by Lessee shall be evidenced by Certificates of Acceptance, the issuance of which shall constitute acceptance of the substitute box cars identified therein.

4.5 Upon completion of such substitution, this Lease Agreement shall terminate as to the Car being substituted, and the box car substituted in place of such Car shall thereupon become a "Car" for all purposes of this Lease Agreement.

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5. CANADIAN DOMESTICATION

Lessee shall have the right to assign the Cars to exclusive Canadian domestic service; provided, however, that any and all costs of Canadian domestication, including without limitation Canadian customs duty payable pursuant to such domestication shall initially be paid by Lessor. Lessee shall reimburse Lessor for such costs within thirty (30) days of receiving an invoice from Lessor for such costs.

6. CONSIDERATION

6.1 Lessee shall pay rental to Lessor as follows:

6.1.1 Interim rental on a pro-rata basis at the rate of [redacted] per day during the period between the date of Delivery pursuant to Paragraph 3.3 of each Car and the Commencement Date; such interim rental shall be payable on the Commencement Date;

6.1.2 Monthly rental at the rate of [redacted] commencing on the Commencement date and terminating at the expiration of the tenth Lease Year.

6.2 Lessee shall pay as additional rent all Impositions (as that term is defined in Paragraph 10.1) required to be paid pursuant to Paragraph 10.2.

6.3 All amounts payable under Paragraph 6.1.2 are payable in advance on the first business day of each month (the "Rental Payment Date"); provided, however, that in the event that for any reason any such amounts are not received by Lessor by the Rental Payment Date, Lessor shall provide Lessee with written notice of such event and Lessee shall make such payment within two (2) business days by wire transfer in immediately available funds. For purposes of this Lease Agreement, the term "business day" shall mean any day other than Saturday, Sunday and any other day on which banking institutions in San Francisco, California

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and Montreal, Quebec are obligated to be closed. Whenever any payment shall become due on a day which is not a business day, such payment shall be made on the next succeeding business day.

6.4 Notwithstanding anything to the contrary contained herein, any nonpayment of rentals due to Lessor under this Lease Agreement shall result in the obligation on Lessee promptly to pay interest at a rate equal to 10% per annum for the period of time during which they are overdue.

7. MARKINGS, RECORD KEEPING, RECORDING, INSPECTIONS

7.1 Lessor will cause each Car to be restencilled with Lessee's running marks and identifying numbers as set forth in Exhibit A. In the event that Lessee changes or permits to be changed the identifying number of the Cars or any other markings of ownership of the Cars, a statement of new identifying numbers or markings to be substituted therefor shall be (i) furnished to Lessor and (ii) filed, recorded and deposited by Lessee in all public offices where this Lease Agreement shall have been filed, recorded and deposited. Except as provided above, Lessee will not allow the name of any person, association or corporation to be placed on any Car as a designation that might be interpreted as a claim of ownership; provided, however, that the Cars may be lettered with the names or initials or other insignia customarily used by Lessee, its affiliates or any authorized sublessee.

7.2 Subject to Lessor providing Lessee with the appropriate information, Lessee shall cause each Car to be registered at all times in the Official Equipment Register and in the Universal Machine Language Equipment Register (UMLER), and any change therein must be mutually agreed by the parties. Lessee shall maintain such records as shall be required from time to time by any applicable regulatory agency or any Association of American Railroads ("AAR") railroad interchange agreement or rule, or which relate to the use and handling of the Cars. Lessee shall, at its own expense, cause this Lease Agreement and any assignment thereof pursuant to Paragraph 17 to

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be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. Section 11303 and deposited with the Registrar General of Canada (and notice of such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purpose of proper protection, to Lessor's satisfaction, of Lessor's rights in the Cars, or for the purpose of carrying out the intention of this Lease Agreement.

7.3 Lessee shall, upon becoming aware thereof, immediately notify Lessor of accidents involving any Car which must be reported under AAR Rule 107 or any Canadian rule of similar application.

7.4 During the term of this Lease Agreement, Lessor, its officers, employees and agents, shall have reasonable access to the Cars to permit physical inspection thereof and to records pertaining thereto upon reasonable prior written notice to the Chief Mechanical Officer or Chief of Transportation depending upon the nature of the inspection; provided, however, that:

7.4.1 Such inspections shall be at the sole risk and expense of Lessor, except in the case of gross negligence or wilful misconduct of Lessee or of its employees or agents, for any damage, injury to, or death of any persons exercising on behalf of Lessor or any prospective assignee of Lessor, the rights of inspection granted hereunder;

7.4.2 Lessor shall exert its best efforts to prevent such inspections from interfering with the normal operation and movement of the Cars; and

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7.4.3 Subject to Paragraph 7.4.1, Lessor shall indemnify and save harmless Lessee from and against any liability for damage to property or bodily injury including that resulting in death sustained by any of the employees or agents of Lessor arising during the course of such inspections.

8. MAINTENANCE, ALTERATIONS, IMPROVEMENTS, ADDITIONS

8.1 Lessee shall, at its sole cost and expense, maintain and repair Cars in accordance with the A.A.R. Interchange Rules and the rules and regulations of the Canadian Transport Commission and other Canadian governmental authorities having jurisdiction with respect thereto.

8.2 Lessee shall have the right, if not in default hereunder, at its expense and without the prior written consent of or notice to Lessor, to make any alteration, improvement or addition to any of the Cars; provided, however, that:

8.2.1 Any such alteration, improvement or addition shall not impair the condition or value of such Car;

8.2.2 Lessee shall have the right, up to the termination of this Lease Agreement, to remove any such alteration, improvement or addition, provided that upon removal of any such alteration, improvement or addition, the Car shall be in AAR interchange condition suitable for load, ordinary wear and tear excepted; provided, however, that with respect to any such alteration, improvement or addition which has not been removed by Lessee prior to the termination of this Lease Agreement, Lessor may require Lessee to remove such alteration, improvement or addition at Lessee's expense; and

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8.2.3 Any such alteration, improvement or addition as to which Lessee and Lessor have not exercised the foregoing right of removal shall become a permanent part of the Car to which it is made and title thereto shall vest in Lessor.

8.3 In the event that any alteration, improvement or addition is made pursuant to any laws, regulations, requirements or rules of any governmental authority or of the AAR, then such alteration, improvement or addition shall be made at Lessee's expense and shall become a permanent part of the Car to which it is made and title thereto shall vest in Lessor.

9. CASUALTY OCCURRENCES

9.1 In the event that during the term of this Lease Agreement or any renewal thereof, any Car is lost, stolen, destroyed or, in the sole opinion of Lessee, damaged beyond economic repair, which events shall hereinafter be referred to as "Casualty Occurrence(s)", Lessee shall promptly, after it shall have determined that such Car has suffered a Casualty Occurence, give written notice to Lessor of such Casualty Occurrence(s), and Lessee shall pay settlement for same as set forth in Exhibit C.

9.2 Lessee's rental obligations with respect to any Car subject to a Casualty Occurrence shall cease upon the giving of written notice of such Casualty Occurrence. Payment of the foregoing settlement amounts shall be made as of the next Rental Payment Date which is more than twenty (20) days after notice is given of such Casualty Occurrence. Upon receipt of such payment by Lessor, this Lease Agreement shall terminate with respect to such Car.

9.3 Lessor, upon receipt of settlement pursuant to Paragraph 9.1, shall execute and deliver to Lessee a bill of sale transferring title to Cars suffering such Casualty Occurrence in the form attached as Exhibit D.

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9.4 Lessor and Lessee agree to cooperate with and to assist each other in any reasonable manner requested to establish and pursue proper claims against parties responsible for loss or destruction of, or damage to, the Cars.

10. TAXES

10.1 Lessee shall be responsible for the filing and payment of all taxes, duties, assessments and other governmental charges of whatsoever kind or character which may be accrued, levied, assessed or imposed during the lease term relating to the importation, possession, operation or use of any Car (collectively, "Impositions"), except taxes on income or measured by income imposed on Lessor. Without limiting the generality of the foregoing, Lessee shall not be responsible for, nor pay to Lessor, any amount as compensation for loss of U.S. investment tax credits or U.S. tax depreciation claims during the term of this Lease Agreement.

10.2 All payments made by Lessee to Lessor pursuant to Paragraph 6.1 of this Lease Agreement shall be made without withholding or deduction for, or on account of, any present or future Impositions imposed by or on behalf of the Government of Canada, any province or territory of Canada or any political subdivision thereof or any authority or agency therein or thereof having power to tax, unless the withholding or deduction of such Impositions is required by law or by reason of the administration thereof. In that event, Lessee shall be responsible to remit to the appropriate authority or authorities all Impositions so withheld or deducted, and shall pay such additional amounts as may be necessary in order that the net amounts received by Lessor, after such withholding or deduction, shall equal the amount which would have been receivable by Lessor in the absence of such withholding or deduction; provided, however, that Lessee shall not be required to pay such Impositions if and so long as (i) Lessor shall elect to contest the validity, applicability, or amount thereof, subject to Lessee's right to direct such contestation, or (ii) Lessee shall in good faith and with due diligence and by appropriate legal or administrative proceedings

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contest the validity, applicability or amount thereof (but only so long as such proceedings shall stay the collection thereof and shall not involve any risk of the sale, forfeiture or loss of any Car or any interest therein). In the event of any such contest by Lessee, Lessor shall cooperate with Lessee and lend such assistance and grant such power and authority to Lessee as may be reasonably necessary in the prosecution thereof; provided, however, that Lessee shall reimburse Lessor for any and all expenses (including, without limitation, attorney's fees) incurred by Lessor in connection therewith. Lessor shall notify Lessee promptly of any and all claims for Impositions served upon Lessor, and shall not pay any such Impositions without Lessee's concurrence; provided, however, that Lessor may make such payment without obtaining the concurrence of Lessee only if failure to make such payment involves an immediate risk of the sale, forfeiture or loss of any Car or any interest therein. In the event that Lessor pays any Impositions, Lessee shall reimburse Lessor upon presentation of an invoice therefor. Additionally, Lessee shall indemnify Lessor and hold Lessor harmless with respect to any and all such Impositions and any and all interest or penalty thereon which may become due during the term of this Lease Agreement; provided, however, that Lessee shall not be responsible to indemnify for any such interest or penalty which results from any delay or failure on the part of Lessor to notify Lessee of any claim served upon Lessor for any Impositions or to pay such Impositions having obtained the concurrence of Lessee to do so, as the case may be.

10.3 In the event that Lessor is able to credit any Canadian Federal, Provincial or local withholding or other taxes paid by Lessee pursuant to Paragraphs 10.1 and 10.2 against its current liability for U.S. Federal, State and local income taxes, and if such credit results in a reduction in the amount of such taxes payable, Lessor agrees to pass the benefit of such reduction (plus the benefit of any reduction which results from the payment to Lessee of such benefit) to Lessee. On or before the extended due date of Lessor's U.S. Federal

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income tax return, Lessor shall notify Lessee as to whether Lessor has benefitted from such reductions with such notification to be provided by Lessor's external auditors at Lessee's expense. Any payment required hereby shall be made within 10 days of notification. Nothing in this Paragraph 10.3 should be construed as relieving Lessor of liability for any U.S. Federal, State or local government income, sales, excise or property tax or other U.S. Federal, State or local government levy imposed upon Lessor that may arise out of receipt by Lessor of payments provided for herein.

10.4 In the event that Lessor at any time causes or creates the existence of a "permanent establishment" for itself in Canada within the meaning of the U.S. Canada Income Tax Convention in effect as of January 1, 1985, Lessor shall advise Lessee thereof in a forthwith manner.

11. MILEAGE ALLOWANCE; SUBROGATION

Provided Lessee is not in default hereunder, Lessee shall be entitled to (i) all mileage allowances and other similar moneys payable by reason of the use of the Cars, and any such mileage allowances or other similar moneys received by Lessor shall be forthwith remitted to Lessee, and (ii) the proceeds of any claim or right of Lessor or Lessee against third persons for injury, damage or loss with respect to any Car or the use or operation thereof, and Lessee shall be subrogated to the extent of Lessee's interest to all Lessor's rights of recovery therefor against any other person, firm or corporation. Lessor hereby authorizes Lessee to make settlement of, receive payment and receipt for any and all such claims on behalf of Lessor, and Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence Lessee's authority and/or to vest in Lessee such proceeds to the extent of Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which Lessee is entitled to proceeds or subrogation as aforesaid, Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of Lessee to such proceeds or to such subrogation.

12. REPRESENTATIONS AND WARRANTIES

12.1 Lessor represents and warrants that:

12.1.1 Lessor has full right, title and authority to lease Cars as provided in this Lease Agreement.

12.1.2 So long as an Event of Default shall not have occurred and is continuing under this Lease Agreement, Lessor shall not do (or suffer to be done by any person claiming through or against Lessor) any act which interferes with any and all rights of Lessee to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Lease Agreement.

12.1.3 The Lessor is a corporation duly incorporated and validly existing under the laws of Delaware, with adequate corporate power to enter into this Lease Agreement.

12.1.4 This Lease Agreement has been duly authorized, executed and delivered by the Lessor and constitutes a legal, valid and binding obligation of the Lessor enforceable in accordance with its terms.

12.1.5 The entering into and performance of this Lease Agreement will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which Lessor is subject or any judgement, decree, franchise, order or permit applicable to Lessor.

12.1.6 There are no actions, suits or proceedings pending or, to the knowledge of Lessor, threatened against Lessor affecting this Lease Agreement or the transaction contemplated hereby which could, if adversely determined,

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materially and adversely affect the carrying out of such transaction.

12.1.7 At the end of the tenth (10th) Lease Year, or any renewal period thereof as described in Paragraph 20, Lessor will have full right, title and interest in the Cars to convey to Lessee clear and unencumbered title thereto and ownership thereof, and to permit Lessee to exercise the purchase options described in Paragraph 21.

12.1.8 Lessor shall obtain any and all consents that it is required to obtain in connection with the transaction contemplated by this Lease Agreement from any of its creditors or any other party having any right or security interest in the Cars, including consent to quiet enjoyment as provided in Paragraph 12.1.2; such consent shall be evidenced in writing to the satisfaction of Lessee and shall be obtained no later than March 1, 1988 failing which the sole remedies of Lessee shall be to (i) terminate this Lease Agreement without penalty or recourse by Lessor and (ii) recover from Lessor any and all cost which Lessee incurred with respect to Canadian domestication pursuant to Paragraph 5.

12.2 Lessee represents and warrants as follows:

12.2.1 Lessee is a duly incorporated and validly existing corporation under the laws of Canada, with full corporate power and authority to own its properties and to carry on its business as presently conducted and to enter into and perform its obligations under this Lease Agreement;

12.2.2 This Lease Agreement has been duly authorized, executed and delivered by Lessee and constitutes a legal and valid agreement binding upon Lessee and enforceable in accordance with its terms;

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12.2.3 No approval is required from any public regulatory body with respect to the entering into or performance of this Lease Agreement by Lessee, or if any such approval is required, it has been properly obtained;

12.2.4 The entering into and performance of this Lease Agreement will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument to which Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which Lessee is subject or any judgement, decree, franchise, order or permit applicable to Lessee.

12.2.5 There are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee or its properties or affecting this Lease Agreement or the transactions contemplated hereby which could, if adversely determined, materially and adversely affect the carrying out of such transactions.

13. USE OF CARS

13.1 The parties agree that Lessee intends to place the Cars in Canadian domestic service; provided, however that Lessee may at any time and at its sole discretion withdraw the Cars from such service, and such action shall not constitute a default under this Lease Agreement.

13.2 The Cars may be operated anywhere in North America, provided that not more than one hundred (100) Cars are located in Mexico at any one time.

13.3 Lessee agrees that while the Cars are in the physical possession or under the control of Lessee or any affiliated or subsidiary corporation the Cars shall be used and operated in compliance with the laws of the jurisdiction in which it is located and with all lawful acts, rules, regulations and orders of any government bodies or officers having power to regulate or supervise the

use thereof, except that Lessee may in good faith, at its expense and by appropriate proceeding or other reasonable manner, contest the application of such act, rule, regulation or order. Lessee shall operate the Cars in accordance with its management practices as to railroad cars in its ownership.

13.4 Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against Lessor not related to the ownership of the Cars or to the extent that the provisions of any mortgage now or hereafter created on any property of Lessee may subject Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Car including any accession thereto or the interests of Lessor or Lessee therein; provided, however, that;

13.4.1 Lessee may in good faith and by appropriate proceeding or other reasonable manner contest such claim, lien, security interest or encumbrance;

13.4.2 Lessee's obligation hereunder shall not arise if any such claim, lien, security interest or encumbrance arose solely through the action or inaction of Lessor;

13.4.3 Lessor shall reimburse or compensate Lessee for expenses or losses resulting from any such claim, lien, security interest or encumbrance referred to in Paragraph 13.4.2.

14. DEFAULTS AND REMEDIES

14.1 Any of the following events shall constitute an event of default by Lessee ("Event(s) of Default"):

14.1.1 Non-payment of any amount required to be paid by Lessee pursuant to Paragraphs 6.1 or 6.2 within the time frames provided in this Lease Agreement, provided that such default shall continue unremedied for five (5) business days; provided, however, that

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there shall be no Event of Default under this Paragraph 14.1.1 as long as Lessee is in compliance with the provisions of Paragraph 6.3;

14.1.2 Subject to Paragraph 14.1.1, failure to cure a breach by Lessee of any material term, covenant or condition of this Lease Agreement within thirty (30) days following Lessor's written notice to Lessee of such default;

14.1.3 The filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of debtors, or the filing of any such petition or action against Lessee not dismissed within sixty (60) days;

14.1.4 Appointment of any receiver or trustee to take possession of a substantial portion of Lessee's properties not set aside within sixty (60) days;

14.1.5 Any unauthorized assignment or transfer of any Car resulting from acts of Lessee not voided or otherwise cured within sixty (60) days.

14.2 Upon the occurrence of any Event of Default as described in Paragraph 14.1, then, in any such case, Lessor, at its option may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease Agreement or to recover damages for the breach thereof; or

(b) by notice in writing to Lessee terminate this Lease Agreement, whereupon all rights of Lessee to the use of the Cars shall absolutely cease and terminate as though this Lease Agreement had never been made, but Lessee shall remain liable as hereinafter provided; and thereupon Lessor may by its agents enter upon the premises of Lessee or

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other premises where any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess, enjoy, sell, lease or otherwise dispose of the same in such manner as Lessor may in its sole discretion determine, with or without notice to Lessee, free from any right of Lessee, or its successors or assigns, to use the Cars for any purposes whatever and without any duty to account to Lessee in respect thereof, but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease Agreement may be then due or which may have accrued to the date of such termination (computing the rental due to Lessor for any number of days less than a full month by multiplying such rental for such full month by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full month) and also to recover forthwith from Lessee (i) as liquidated damages for loss of the bargain and not as a penalty, a sum, with respect to all Cars, which equals the Casualty Value of all the Cars as of the Rental Payment Date next preceding the date of termination of this Lease Agreement, and (ii) any damages and expenses in addition thereto, including, without limitation, transportation costs, reasonable attorneys' fees and court costs, which Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease Agreement other than for the payment of rental in the event Lessor collects liquidated damage described herein, and other than arising from the exercise by Lessor of any remedies hereunder. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that upon and/or after payment of the amount to be paid by Lessee to Lessor under subclause (i) of this clause (b) Lessor shall refund to Lessee an amount equal to the net amount received by Lessor, such refunded amount not to exceed the Casualty Value, on any sale, lease or disposition of the Cars

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after deducting all costs and expenses incurred, including attorney's fees, in connection therewith.

14.3 The remedies in this Lease Agreement provided in favour of Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favour existing at law or in equity. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent such waiver is permitted by law. Lessee hereby waives any and all existing or future claims to any offset against the rental payments due to Lessor, and agrees to make such rental payments regardless of any offset or claim which may be asserted by Lessee or on its behalf.

15. INDEMNITIES

15.1 Except as otherwise herein provided, Lessee shall indemnify and save harmless Lessor from and against all loss, expense or liability howsoever arising from the lease, use or operation of any Car or any commodity loaded or transported therein during the term hereof, whether or not such Car is within Lessee's physical possession or subject to its control; provided, however, that Lessee shall not be required to indemnify Lessor under this Paragraph for:

15.1.1 gross negligence or willful misconduct on the part of Lessor, its employees or agents;

15.1.2 any patent infringement claims or liabilities.

The indemnity under this Paragraph 15.1 shall survive termination of this Lease Agreement only to the extent that any such loss, expense or liability is attributable to any Car or commodity loaded or transported therein while such Car is subject to this Lease Agreement. Acceptance of a Car by Lessor, which acceptance shall be in writing, upon expiry of the term hereof will preclude any claims for loss, expense or liability on the part of Lessor occasioned to such Car by commodities transported therein after such

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acceptance. The provisions of this Paragraph 15.1 are subject to the requirements of Paragraph 7.4. Upon the payment in full by Lessee of any indemnities as contained in this Paragraph 15.1, Lessee shall be subrogated to any right of Lessor in respect of the matters against which indemnity has been given. Any payments received by Lessor from any person (except Lessee) as a result of any matter with respect to which Lessor has been indemnified by Lessee pursuant to this Paragraph 15.1, shall be paid over to Lessee to the extent necessary to reimburse Lessee for indemnification payments previously made to Lessor by Lessee in respect of such matter.

15.2 Lessor will defend, indemnify and hold Lessee harmless against any claim, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the quiet enjoyment of the Cars as provided in Paragraph 12.1.2 and with respect to the ownership thereof and title thereto.

16. RETURN OF CARS UPON TERMINATION

Subject to Paragraphs 9, 20 and 21, upon termination of this Lease Agreement as to any Car, whether at the end of the tenth Lease Year or otherwise, Lessee shall, within thirty (30) days written notice from Lessor, surrender possession thereof to Lessor at an interchange point on Lessee's trackage in Canada as mutually agreed by Lessor and Lessee. Transportation costs so incurred shall be at the expense of Lessee. All Cars so returned shall be in AAR interchange and serviceable condition, ordinary wear and tear excepted. Lessee shall make or cause to be made all repairs necessary to restore any Car to such condition. Lessor, by its officers, employees and agents, shall have reasonable access to maintenance and repair records pertaining to the Cars upon reasonable prior written notice to the Chief Mechanical Officer of Lessee, and may, at its own expense, copy such records as it deems necessary. Upon thirty (30) days written notice by Lessor to Lessee, Lessee shall, subject to the proviso contained in the next sentence, provide storage on Lessee's trackage for any terminated Car for up to ninety (90) days at no cost to Lessor in order to permit Lessor to arrange disposal thereof. Lessee shall afford such stored Cars the same standard of care and protection as it affords its own Cars on its lines;

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provided, however, that notwithstanding Lessee's undertaking to afford the Cars such standard of care and protection, Lessor shall bear the risk of any damage to the Cars occurring during such storage period except for any such damage resulting from the gross negligence of Lessee, its employees, agents or representatives.

17. LEASE ASSIGNMENT; SUB-LEASE

17.1 This Lease Agreement shall be fully assignable by Lessor; provided, however, that Lessor shall provide prior written notice to Lessee of such assignment. Lessor covenants that any sale, assignment, transfer, mortgage or disposition which it may make of this Lease Agreement or of any Car, whether prior or subsequent to Delivery to Lessee, shall be expressly subject to the terms and provisions of this Lease Agreement.

17.2 Lessee shall be entitled to the quiet enjoyment, possession and use of the Cars in accordance with the terms of this Lease Agreement, but, except as otherwise expressly provided herein, Lessee shall not without the prior written consent of Lessor assign or transfer all or any portion of its leasehold interest under this Lease Agreement in the Cars or any of them (except to the extent that the provisions of any mortgage now or hereafter created on any property of Lessee may subject Lessee's leasehold interest to the lien thereof).

17.3 Lessee shall be entitled to the possession of the Cars and to the use thereof by it or any affiliated or subsidiary corporation, but only upon and subject to all the terms and conditions of this Lease Agreement and without in any way relieving Lessee from any obligation or liability hereunder.

17.4 Nothing in this Paragraph 17 shall be deemed to restrict the right of Lessee (i) to assign or transfer its leasehold interest under this Lease Agreement in the Cars or possession of the Cars to any company incorporated under the laws of Canada (which shall have duly assumed the obligations of Lessee hereunder) into or with which Lessee shall have become amalgamated, merged or consolidated and which shall have acquired the property of

Lessee as an entirety or substantially as an entirety; or (ii) to sublease any Car to any party for a period (including renewals) not exceeding one year without the prior written consent of Lessor; or (iii) to sublease any Car to any party for a period (including renewals) of more than one year with the prior written consent of Lessor, such consent not to be unreasonably withheld, provided that the rental under such sublease shall be no greater than the rent payable by Lessee hereunder. No such sublease shall relieve Lessee of any liability or obligation hereunder.

18. NOTICES

18.1 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when personally served upon an officer of the recipient, when sent by telex, faxmittal or other similar means, or when mailed first class, postage prepaid, addressed as follows:

If to Lessor: Itel Rail Corporation
55 Francisco Street
San Francisco, CA 94133
Attention: President
Telex: 184179
Telecopier: 415-781-1035

If to Lessee: Canadian National Railway Company
935 de Lagauchetiere St. W.
Montreal, Quebec, Canada H3B 2M9
Attention: Treasurer
Telex: 055-60957
Telecopier: 514-399-5479
514-399-5586

Any party hereto may change the address to which notice is to be mailed by written notice thereof to the other.

18.2 All payments made to Lessor shall be sent to:

Itel Rail Corporation
55 Francisco Street
San Francisco, CA 94133
Attention: Controller

19. MISCELLANEOUS

19.1 The waiver of any right accruing to any party by failure of that party to exercise that right in a given instance, or delay in exercising that right, shall not be deemed a waiver of that right in future instances of a similar nature or affect any other right, power or remedy available to that party.

19.2 Nothing contained herein shall be construed in any way whatsoever so as to constitute or establish a partnership, joint venture or contract of employment between the parties.

19.3 Subject to Paragraph 17, this Lease Agreement shall be binding upon and inure to the benefit of, the parties, their respective successors and assigns.

20. RENEWAL OPTIONS

20.1 Lessee shall have the option, if not in default hereunder at the time Lessee exercises such option or at any time thereafter through to the termination of the initial ten (10) year term, to extend the term of this Lease Agreement for all but not fewer than all of the Cars upon the terms and conditions of this Lease Agreement, for a five (5) year renewal period.

20.2 The renewal option described in Paragraph 20.1 shall be exercised by Lessee giving Lessor written notice thereof not less than two hundred and seventy (270) days prior to the termination of the initial ten (10) year term.

21. PURCHASE OPTIONS

21.1 Lessee shall have the option, if not in default hereunder at the time Lessee exercises such option or at any time thereafter through to the termination of the initial ten (10) year term, to purchase all but not fewer than all of the Cars upon terms and conditions as follows:

21.1.1 The Option A purchase price shall be [redacted]

[redacted] at the termination of the tenth (10th) Lease Year of this Lease Agreement;

21.1.2 The Option B purchase price shall be [redacted] at the termination of the fifteenth (15th) Lease Year of this Lease Agreement.

21.2 The purchase options described in Paragraph 21.1 shall be exercised by Lessee giving Lessor written notice thereof not less than two hundred and seventy (270) days prior to the termination of the particular Lease Year as applicable to each option.

21.3 Lessee shall pay to Lessor the Option A or the Option B purchase price, as the case may be, within thirty (30) days after the termination of this Lease Agreement.

21.4 All sales or use tax accruing as the result of such sale are the responsibility of Lessee.

21.5 Upon payment of the purchase price under any of the purchase options described in Paragraph 21.1, Lessor shall execute and deliver to Lessee a bill of sale for such Cars in the form of Exhibit D.

22. INSURANCE

Lessee will, at all times prior to the return of the Cars to Lessor in accordance with the terms of this Lease Agreement and during any storage period, at its own expense, cause to be carried and maintained public liability and property damage insurance in respect of the Cars against the risks and in the amounts, if any, customarily insured against by Lessee in respect to similar equipment owned or leased by it. Notwithstanding anything to the contrary in this Paragraph 22, Lessee shall be permitted to provide for customary deductibles and/or self insurance.

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23. SEVERABILITY; EFFECT AND MODIFICATION OF LEASE AGREEMENT

23.1 Any provision of this Lease Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

23.2 This Lease Agreement exclusively and completely states the rights of Lessor and Lessee with respect to the leasing of the Cars and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for Lessor and Lessee.

24. EXECUTION

This Lease Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in such case such counterparts together shall constitute but one and the same instrument.

25. GOVERNING LAW

This Lease Agreement shall be subject to and construed in accordance with the internal laws of the State of California.

26. EXPENSES

Lessee and Lessor shall pay and assume their respective costs and expenses (including fees and expenses of counsel) incurred in connection with the preparation of this Lease Agreement and all documents related hereto.

MGP

27. EFFECTIVE DATE

This Lease Agreement and the obligations of the parties hereto shall be effective as and from the date first above written.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed on the day and year first above written.

ITEL RAIL CORPORATION
(LESSOR)

President

CANADIAN NATIONAL RAILWAY COMPANY
(LESSEE)

Approved as to form only
Attorney

VICE-PRESIDENT

ASSISTANT SECRETARY

STATE OF California :

: SS.

COUNTY OF San Francisco :

On this 23rd day of December, 1987, before me personally appeared Desmond P. Hayes, to me personally known who, being by me duly sworn, says that (s)he is the President of Itel Rail Corporation., that the seal affixed to the said instrument is the seal of said organization, that said instrument was signed and sealed on behalf of said organization by authority of its governing body, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said organization.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

OFFICIAL SEAL
GINNY E. HANGER
NOTARY PUBLIC - CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
My Comm. Expires May 6, 1988

Ginny E Hanger
NOTARY PUBLIC

MY COMMISSION EXPIRES: May 6, 1988

PROVINCE OF QUEBEC)
) ss.:
DISTRICT ~~CITY~~ OF MONTREAL)

On this 16th day of December, 1987, before me personally appeared Paul J. Halicot, to me personally known, who, being by me duly sworn, says that he is the Vice-President of Canadian National Railway Company, that one of the seals affixed to the foregoing instrument is the seal of said Company, that said instrument was signed and sealed on behalf of said Company by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free and deed of said Company.

L. Burton
COMMISSION FOR OATHS
PROVINCE OF QUEBEC

L. BURTON
Commissioner for Oaths
Commissaire à l'Assermentation
District-Montreal
Expires July 10, 1989

~~(Notarial Seal)~~

EXHIBIT A

DESCRIPTION OF REQUIREMENTS AND SPECIFICATIONS FOR CARS

1. Car Identification

Present Car Marking	Number of Cars	CN Car Markings
	450	CN 416450 to CN 416899 inclusive

2. Car Description

UMLER Value

Date Built

Car Builder and Location

AAR Mechanical Designation XM

3. Car Specifications

Lessor shall provide detailed specifications and drawings for the Cars if available. If such specifications and drawings are not available, Lessor shall use its best efforts to obtain such specifications and drawings on behalf of Lessee.

4. General Condition and Car Modifications

All Cars will be in suitable mechanical condition, repaired to the specifications referred to in item 3 above and to AAR, FRA or RTC requirements prior to being tendered for final inspection and acceptance. Car components worn to AAR condemnable limit or otherwise defective will be changed out or repaired and all safety appliances will be within acceptable limits, all as prescribed by AAR, FRA or RTC. Without limiting the generality of the foregoing, under no circumstances shall there be anything less than the normal life cycle remaining on car components not so changed out or repaired.

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Without limiting the generality of the foregoing, specific attention will be paid to the following items:

Draft and Truck Components

The draft and truck components are to be inspected and repaired if necessary, in accordance with the Field Manual of the A.A.R. Interchange Rules. Broken truck springs are to be renewed and missing coupler wear plates are to be reapplied.

Wheels

Wheels worn to A.A.R. condemnable limits or which have A.A.R. condemnable defects are to be replaced.

Brakes

Both the air brake and hand brake are to be inspected and repaired if necessary, in accordance with the Field Manual of the A.A.R. Interchange Rules.

Body Construction

A) Sides and Ends

The sides and ends are to be free of cuts or dents that could hinder the containment of loads or cause a loss in its protection from the elements of weather. Excessive dents are to be straightened. Cuts are to be repaired by welding patch plates to the outside of the side sheet.

B) Sills

All sills are to be inspected. If cracks are detected they are to be repaired.

C) Doors

Door tracks are to be straight to allow the door to open and close with moderate amount of force, ie. as applied by an average car repairman standing on level ground without the aid of special tools.

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Doors are to be straight and free of cuts and provide good protection against the elements of the weather. Cuts are to be repaired by welding patch plates to the outside of the door sheets. Door edges and posts are to be straight and fit tight to each other to provide a good seal.

Door mechanisms are to be in good operating condition. Any missing parts must be replaced and bent or broken parts must be repaired or replaced.

Doors are to be fitted with forklift pusher pockets.

D) Paint

Rust, and/or damaged areas on the interior and exterior must have paint renewed.

All above work to be carried out in an A.A.R. approved manner at Lessor's expense.

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EXHIBIT B

CERTIFICATE OF ACCEPTANCE

To: ITEL RAIL CORPORATION (Lessor)
55 Francisco Street
San Francisco, California
U.S.A. 94133
Attention:

Canadian National Railway Company (Lessee)
935 de La Gauchetiere Street West
Montreal, Quebec
Canada, H3B 2M9
Attention: Chief of Motive Power & Car Equipment

The undersigned, a duly authorized inspector of Lessee, under Lease Agreement dated as of December 17, 1987, with Lessor, does hereby certify that:

Under authority of Lessee, I have inspected at of the units of railroad equipment specified in Schedule A hereto attached and made a part hereof (Cars), as conforming in all respects to the terms and provisions of said Lease Agreement.

Under authority of Lessee, I further certify that by virtue of my said acceptance of said Cars the same have, on the dates and at the place stated, come under lease to Lessee pursuant to the terms and provisions of said Lease Agreement.

.....
Authorized Inspector

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EXHIBIT B - Page 2

SCHEDULE "A"

Description of Cars referred to in the foregoing Certificate of Acceptance:

Previous Car Number(s)	CN Car Number(s)	Date(s) of Delivery and Acceptance

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EXHIBIT C

SCHEDULE OF CASULATY VALUES

NOTE: The Casualty Value payable shall be the amount corresponding to the month in which notice of a Casualty Occurence is given pursuant to Paragraph 9.1, or in which the Lease Agreement is terminated pursuant to Paragraph 14.2(b), as the case may be.

MONTH NUMBER	CASUALTY VALUE	MONTH NUMBER	CASUALTY VALUE	MONTH NUMBER	CASUALTY VALUE

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EXHIBIT D

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS THAT, in San Francisco, California, in consideration of the payment of $ and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Itel Rail Corporation ("Seller") does hereby grant, bargain, sell, convey, transfer and deliver to Canadian National Railway Company ("Purchaser"), its successors and assigns forever, all right, title and interest of Seller in and to all of the boxcars specifically identified on Schedule 1 (the "Cars"), TO HAVE AND TO HOLD the same unto Purchaser, its successors and assigns forever.

Seller does hereby assign, grant, bargain, sell, convey, transfer and deliver to Purchaser, its successors and assigns forever, all right, title, interest, powers and privileges of Seller in and to such warranties, if any, made by third parties with respect to the Cars as currently exist or will exist to the extent that Seller has rights in such warranties and such rights are assignable.

Seller represents and warrants as follows:

(a) THE CARS ARE PURCHASED BY PURCHASER "AS IS, WHERE IS" AND SELLER DOES NOT MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE BOXCARS, MERCHANTABILITY OF THE BOXCARS, FITNESS OF THE BOXCARS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER CONCERNING THE BOXCARS.

(b) Seller has good, valid and marketable title to the Cars free and clear of all liens, pledges, security interests, charges, encumbrances or other defects of title of any nature whatsoever, and there is no contract, convenant or restriction which prevents Seller from conveying or transferring to Purchaser unencumbered title to the Cars or giving possession of the Cars to Purchaser.

(c) Seller is not a party to any contracts, arrangements or commitments respecting the Cars or which affect the Cars.

MJP

IN WITNESS WHEREOF, Seller has executed this instrument in San Francisco, California, this day of , 19 .

ITEL RAIL CORPORATION

By:

.....

Title:

.....

Signed in the presence of:

....

....

STATE OF)
) ss:
COUNTY OF)

On this day of , 19 , before me personally appeared , to me personally unknown, who being by me duly sworn says that such person is of , that the foregoing Bill of Sale 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.

.....

Notary Public

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