

# ITEL

## Rail Division

Two Embarcadero Center  
San Francisco, California 94111  
(415) 955-9090  
Telex 34234

RECORDATION NO. 13706  
JUL 26 1982 - 1 45 PM  
INTERSTATE COMMERCE COMMISSION

July 23, 1982

Ms. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

2-207A086  
No. JUL 26 1982  
Date .....  
Fee \$ 60.00  
ICC Washington, D. C.

RECEIVED  
JUL 26 1 38 PM '82  
FEE OPERATION BR.

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Itel Corporation, for filing and recordation, four counterparts of the following document:

Lease Agreement dated May 14, 1982 (the "Lease")  
between Itel Corporation, Rail Division and Atchison,  
Topeka and Santa Fe Railway Company ("ATSF").

*THIS IS A NEW FILING.*

The names and addresses of the parties to the aforementioned Lease are:

1. Atchison, Topeka and Santa Fe Railway Company  
80 East Jackson Boulevard  
Chicago, Illinois 60604
2. Itel Corporation, Rail Division  
Two Embarcadero Center, 24th Floor  
San Francisco, California 94111

→ Please cross-index the above-referenced Lease with the following document, which was filed on December 22, 1978 at 10:00 A.M. and given ICC recordation number 9932:

Equipment Trust Agreement 1978, Series 3, dated  
November 1, 1978, between First Security Bank of  
Utah, N.A., trustee and Itel Corporation, Rail Division.

Also enclosed is a check in the amount of \$60.00 for the required recording and cross-indexing fees.

*Open Report - James McCall*

Ms. Agatha Mergenovich, Secretary  
July 23, 1982  
Page Two

The equipment covered by the Lease is seven hundred (700) 70-ton flush deck flatcars, 89'4" in length, A.A.R. mechanical designation FC, bearing reporting marks as described in Attachment A to this letter.

Please stamp all counterparts of the enclosed Lease with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be delivered to the bearer of this letter.

Sincerely,  
  
Patricia Salas Pineda  
Counsel

PSP:dmm  
Enclosures

cc: Michael Walsh, Esq.  
Weil, Gotshal & Manges  
767 Fifth Avenue  
New York, New York 10020

Robert S. Clark, Esq.  
Senior Trust Officer  
First Security Bank of Utah, N.A.  
Corporate Trust Division  
79 South Main Street  
Salt Lake City, Utah 84111

Doug Drummond  
Itel Corporation

Linda Lawrence  
Itel Corporation

**ATTACHMENT A**

Reporting marks of 700 flatcars covered by Lease Agreement dated May 14, 1982 between ITEL Corporation, Rail Division and Atchison, Topeka and Santa Fe Railway Company.

**EQ. SCHEDULE 1: 245 cars**

**Previous Flatcar Marks**

NOPB 101050-10129

**Future Flatcar Marks**

Within the series:  
SFLC 901000-901480

**EQ. SCHEDULE 2: 50 cars**

TASD 790000-790049

Within the series:  
SFLC 9010000-901480

**EQ. SCHEDULE 3: 186 cars**

(Numbers currently not known)

Within the series:  
SFLC 901000-901480

**EQ. SCHEDULE 4: 219 cars**

**Previous Flatcar Marks**

SP 105324  
SP 105334  
SP 105363  
SP 105366  
SP 105394  
SP 105383  
SP 105357  
SP 105390  
SP 105399  
SP 105347  
SP 105301  
SP 105405  
SP 105446  
SP 105450  
SP 105483  
SP 105444  
SP 105472  
SP 105458  
SP 105503  
SP 105534  
SP 105547  
SP 105554  
SP 105562  
SP 105509

**Current Flatcar Marks**

SFLC 105324  
SFLC 105334  
SFLC 105363  
SFLC 105366  
SFLC 105394  
SFLC 105383  
SFLC 105357  
SFLC 105390  
SFLC 105399  
SFLC 105347  
SFLC 105301  
SFLC 105405  
SFLC 105446  
SFLC 105450  
SFLC 105483  
SFLC 105444  
SFLC 105472  
SFLC 105458  
SFLC 105503  
SFLC 105534  
SFLC 105547  
SFLC 105554  
SFLC 105562  
SFLC 105509

Previous Flatcar Marks

SP 105568  
SP 105512  
SP 105500  
SP 105591  
SP 105571  
SP 105596  
SP 105574  
SP 105583  
SP 105708  
SP 105702  
SP 105721  
SP 105794  
SP 105718  
SP 105758  
SP 105787  
SP 105716  
SP 105707  
SP 105713  
SP 105782  
SP 105759  
SP 105314  
SP 105332  
SP 105358  
SP 105466  
SP 105421  
SP 105490  
SP 105540  
SP 105797  
SP 105331  
SP 105338  
SP 105369  
SP 105381  
SP 105328  
SP 105351  
SP 105411  
SP 105480  
SP 105471  
SP 105524  
SP 105530  
SP 105536  
SP 105541  
SP 105513  
SP 105516  
SP 105796  
SP 105710  
SP 105725  
SP 105752  
SP 105754  
SP 105701  
SP 105727  
SP 105741

Current Flatcar Marks

SFLC 105568  
SFLC 105512  
SFLC 105500  
SFLC 105591  
SFLC 105571  
SFLC 105596  
SFLC 105574  
SFLC 105583  
SFLC 105708  
SFLC 105702  
SFLC 105721  
SFLC 105794  
SFLC 105718  
SFLC 105758  
SFLC 105787  
SFLC 105716  
SFLC 105707  
SFLC 105713  
SFLC 105782  
SFLC 105759  
SFLC 105314  
SFLC 105332  
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SFLC 105466  
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SFLC 105490  
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SFLC 105331  
SFLC 105338  
SFLC 105369  
SFLC 105381  
SFLC 105328  
SFLC 105351  
SFLC 105411  
SFLC 105480  
SFLC 105471  
SFLC 105524  
SFLC 105530  
SFLC 105536  
SFLC 105541  
SFLC 105513  
SFLC 105516  
SFLC 105796  
SFLC 105710  
SFLC 105725  
SFLC 105752  
SFLC 105754  
SFLC 105701  
SFLC 105727  
SFLC 105741

Previous Flatcar Marks

SP 105349  
SP 105350  
SP 105352  
SP 105356  
SP 105374  
SP 105309  
SP 105321  
SP 105327  
SP 105420  
SP 105442  
SP 105456  
SP 105474  
SP 105492  
SP 105430  
SP 105593  
SP 105528  
SP 105565  
SP 105729  
SP 105730  
SP 105789  
  
SP 105310  
SP 105385  
SP 105364  
SP 105305  
SP 105346  
SP 105304  
SP 105336  
SP 105388  
SP 105418  
SP 105422  
SP 105535  
SP 105521  
SP 105553  
SP 105600  
SP 105739  
SP 105737  
SP 105704  
SP 105709  
SP 105746  
SP 105747  
SP 105755  
SP 105717  
SP 105766  
SP 105387  
SP 105302  
SP 105315  
SP 105316  
SP 105340  
SP 105348  
SP 105368  
SP 105330  
SP 105403

Current Flatcar Marks

SFLC 105349  
SFLC 105350  
SFLC 105352  
SFLC 105356  
SFLC 105374  
SFLC 105309  
SFLC 105321  
SFLC 105327  
SFLC 105420  
SFLC 105442  
SFLC 105456  
SFLC 105474  
SFLC 105492  
SFLC 105430  
SFLC 105593  
SFLC 105528  
SFLC 105565  
SFLC 105729  
SFLC 105730  
SFLC 105789  
  
SFLC 105310  
SFLC 105385  
SFLC 105364  
SFLC 105305  
SFLC 105346  
SFLC 105304  
SFLC 105336  
SFLC 105388  
SFLC 105418  
SFLC 105422  
SFLC 105535  
SFLC 105521  
SFLC 105553  
SFLC 105600  
SFLC 105739  
SFLC 105737  
SFLC 105704  
SFLC 105709  
SFLC 105746  
SFLC 105747  
SFLC 105755  
SFLC 105717  
SFLC 105766  
SFLC 105387  
SFLC 105302  
SFLC 105315  
SFLC 105316  
SFLC 105340  
SFLC 105348  
SFLC 105368  
SFLC 105330  
SFLC 105403

Previous Flatcar Marks

SP 105415  
SP 105423  
SP 105435  
SP 105440  
SP 105453  
SP 105498  
SP 105432  
SP 105414  
SP 105465  
SP 105486  
SP 105508  
SP 105522  
SP 105523  
SP 105552  
SP 105573  
SP 105579  
SP 105586  
SP 105589  
SP 105595  
SP 105550  
SP 105577  
SP 105703  
SP 105705  
SP 105734  
SP 105749  
SP 105771  
SP 105772  
SP 105711  
SP 105714  
SP 105359  
SP 105311  
SP 105333  
SP 105391  
SP 105362  
SP 105499  
SP 105406  
SP 105409  
SP 105449  
SP 105493  
SP 105502  
SP 105510  
SP 105558  
SP 105575  
SP 105723  
SP 105767  
SP 105778  
SP 105790  
SP 105793  
  
SP 105372  
SP 105783  
SP 105467

Current Flatcar Marks

SFLC 105415  
SFLC 105423  
SFLC 105435  
SFLC 105440  
SFLC 105453  
SFLC 105498  
SFLC 105432  
SFLC 105414  
SFLC 105465  
SFLC 105486  
SFLC 105508  
SFLC 105522  
SFLC 105523  
SFLC 105552  
SFLC 105573  
SFLC 105579  
SFLC 105586  
SFLC 105589  
SFLC 105595  
SFLC 105550  
SFLC 105577  
SFLC 105703  
SFLC 105705  
SFLC 105734  
SFLC 105749  
SFLC 105771  
SFLC 105772  
SFLC 105711  
SFLC 105714  
SFLC 105359  
SFLC 105311  
SFLC 105333  
SFLC 105391  
SFLC 105362  
SFLC 105499  
SFLC 105406  
SFLC 105409  
SFLC 105449  
SFLC 105493  
SFLC 105502  
SFLC 105510  
SFLC 105558  
SFLC 105575  
SFLC 105723  
SFLC 105767  
SFLC 105778  
SFLC 105790  
SFLC 105793  
  
SFLC 105372  
SFLC 105783  
SFLC 105467

Previous Flatcar Marks

SP 105354

SP 105519

Current Flatcar Marks

SFLC 105354

SFLC 105519

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Patricia Salas Pineda  
Istel Corporation-Rail Div.  
Two Embarcadero Center  
San Francisco, California 94111

July 26, 1982

Dear Madam:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/26/82 at 1:45PM , and assigned re-  
recording number(s). 13706

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

LEASE AGREEMENT

RECORDATION NO. 13706 (Book 1426)  
JUL 26 1982 - 1 45 PM  
INTERSTATE COMMERCE COMMISSION

THIS LEASE AGREEMENT ("Agreement") made this 14th day of May, 1982, between ITEL CORPORATION, RAIL DIVISION, a Delaware corporation, Two Embarcadero Center, San Francisco, California, 94111, as the lessor and agent ("Lessor") and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation, 80 East Jackson Boulevard, Chicago, Illinois 60604, as the lessee ("Lessee").

I. Lease of Equipment

- A. Lessor agrees to furnish and lease to Lessee and Lessee agrees to lease from Lessor upon the terms and conditions set forth herein a number of items of equipment of the number, type, construction and description 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 each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively "Cars" and each individual scheduled item of equipment is hereinafter called "Car."
- B. It is the intent of the parties to this Agreement that Lessor shall at all times be and remain the lessor of all Cars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and 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 from the date of execution hereof until it is terminated as to all of the Cars as provided herein. The term of this Agreement with respect to each Car described on each Schedule shall commence at 12:00 P.M. on the date and at the location that such Car is restencilled pursuant to Section 3.A., and shall expire as to all of the Cars described on each Schedule, one (1) year from the date at which fifty (50) percent of all the Cars on such Schedule were restencilled (the "Initial Term").
- B. If this Agreement has not been terminated prior to the expiration of the Initial Term, and no default has occurred, which is continuing, the Agreement shall automatically be extended for an additional period of one (1) year (the "Extended Term") with respect to all of the Cars described on each Schedule, provided, however, that Lessor or Lessee may terminate this Agreement at the end of the Initial Term as to all, but not fewer than all, of the Cars described on each Schedule by written notice delivered to the other not less than thirty (30) days prior to the end of the Initial Term.

- C. During the Extended Term, either Lessor or Lessee may terminate this Agreement upon thirty (30) days prior written notice delivered to the other party.
- D. For purposes of determining the rent as provided in Section 6 herein, the Termination Date (hereinafter "Termination Date") shall be defined as the date this Agreement is finally terminated as to each Car, whether pursuant to the expiration of the Initial Term or Extended Term or any early termination hereof.

### 3. Restencilling and Delivery

- A. Lessee hereby approves the specifications of the Cars delivered to it by Lessor. Lessee shall, at Lessee's expense, restencil the Cars with the railroad markings of Lessee in compliance with all applicable regulations. Concurrent with any restencilling at the commencement of this Agreement, Lessor and Lessee shall execute a Certificate of Restencilling (in the form of Exhibit A attached hereto) specifying the previous and current reporting marks of each Car subject to this Agreement. Such Certificate of Restencilling shall become attached to and incorporated into this Agreement. Delivery with respect to a Car shall be deemed to have taken place on the date that such Car is interchanged to any point on the railroad line of Lessee and accepted by Lessee in accordance with the Association of American Railroad's (AAR) rules ("Delivery Date").
- B. For purposes of determining the rent as provided in Section 6 herein, the Commencement Hour (hereinafter "Commencement Hour"), with respect to each Car, shall be the date and hour such Car is placed for its initial loading on Lessee's railroad lines.
- C. Additional Cars shall be leased from Lessor by Lessee only upon the mutual agreement of the parties. During the term of this Agreement, Lessor may, at its expense, replace any or all of the Cars with similar equipment upon prior written notice from Lessor to Lessee.

### 4. Record Keeping

- A. Lessee shall, at its expense, prepare and file, with respect to the Cars, all documents relating to the registration, maintenance and record keeping functions as normally performed by a railroad with respect to railroad equipment of the type subject to this Agreement. Such matters shall include, but are not limited to the following: (i) preparation of AAR documents with respect to the Cars; (ii) registration of the Cars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) preparation of any reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and/or any other regulatory agencies with respect to the Cars. Lessee shall register each Car in the UMLER in such a manner that Lessor is allowed access to any required information with regard to each Car. In addition, Lessee shall be responsible for any expenses incurred and rent lost as the result of any improper UMLER registration.

- B. Lessee shall perform all record keeping functions relating to the use of the Cars by Lessee and other railroads, including but not limited to, maintenance and repair, and billing in accordance with the AAR Interchange Rules. All record keeping performed by Lessee hereunder and all record of payments, charges and correspondence related to the Cars shall be separately recorded and maintained by Lessee in a form suitable for reasonable inspection by Lessor from time to time during Lessee's regular business hours. Lessor shall be entitled to make such inspection at will.

5. Maintenance, Tax and Insurance

- A. Except as otherwise provided herein, Lessor shall, at its expense, perform or have performed ~~(all)~~ inspections of, maintenance and repairs to, and servicing of the Cars as shall be necessary to maintain the Cars in good operating condition as specified in the AAR Interchange Rules, provided, however, that such repair, maintenance and servicing shall be performed at Lessee's expense in the event it was occasioned by the fault of Lessee, or arises in those instances in which the AAR Interchange Rules would assign responsibility to Lessee for the loss, damage, destruction or liability requiring such repair, maintenance or servicing. Lessee shall inspect all Cars interchanged to it to insure that such Cars are in good working order and condition and Lessee shall be liable to Lessor for any repairs required for damage not noted at the time of interchange.

*W. J. S. E. J. S.*  
OTHER THAN INTERCHANGE INSPECTIONS

- B. Lessor shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition. Lessee may make running repairs, as defined in Exhibit B attached hereto, to facilitate continued immediate use of each Car, but shall not otherwise make any repairs, alterations, improvements, or additions to any Car without Lessor's prior written consent. Lessee shall be liable to Lessor for any revenues lost due to any unauthorized repair, alterations, improvement or addition. Title to any such alteration, improvement or addition shall be and remain with Lessor.

*E. J. S. W. J. S.*  
OR CAUSE TO HAVE MADE

- C. As long as this Agreement shall remain in effect, Lessee shall be responsible for the Cars (i) while in Lessee's possession or control, and (ii) in the same manner that Lessee is responsible under Interchange Rules for similar equipment not owned by Lessee. Lessee shall, at all times while this Agreement is in effect, at its own expense, cause to be carried and maintained (a) physical loss or damage insurance with respect to the Cars while on Lessee's tracks, provided, however, that the Lessee may self-insure such Cars to the extent it self-insures equipment similar to the Cars and to the extent such self-insurance is consistent with prudent industry practice, and (b) public liability insurance with respect to third party personal injury and property damage, in each case said insurance shall be in such amounts and for such risks and with such insurance companies as are consistent with prudent industry practice; provided, however, that Lessee may self-insure against such liability to the extent such self-insurance is consistent with prudent industry practice, but in any event such insurance shall be at least comparable to insurance coverage carried by the Lessee in respect of similar equipment owned or leased by it. Lessee shall furnish to Lessor concurrently with the execution hereof

certificates evidencing the aforesaid insurance. All insurance shall be taken out in the name of Lessee and shall name Lessor as additional named insured, and shall also list Lessor as loss-payees on the property insurance policies. Said policies shall provide that Lessor shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation thereof. Lessor may, at its option, re-evaluate the insurance coverage provided by Lessee and request additional coverage as deemed necessary.

- D. Lessee assumes responsibility for and agrees to pay, protect, save, keep harmless and indemnify Lessor and its successors against taxes, fees, levies, impost, duties or withholdings of any nature together with penalties, fines or interest thereon (taxes) imposed on, incurred by or asserted against: (1) the Cars, (2) lease, sublease or delivery of the Cars, (3) revenues earned by the Cars, including but not limited to mileage charges and/or car hire revenues, during the term of this Agreement, except taxes on income and franchise taxes imposed on Lessor. Lessee shall comply with all state and local laws requiring filing of ad valorem tax returns associated with the Cars and shall provide Lessor with a photostatic copy of the receipted ad valorem tax bill within thirty (30) days after receipt.
- E. In the event that any or all of the Cars require storage on Lessee's railroad lines at any time, Lessee shall be responsible for the following: (1) all reasonable transportation costs incurred to move the Cars to such storage location; (2) all reasonable transportation costs incurred in removing such Cars from the storage location; and (3) the actual costs incurred for the storage of each Car for up to one hundred eighty (180) days unless this Agreement has been terminated prior to the expiration of the Initial Term, or prior to the expiration of the Extended Term during the Extended Term. If Lessor pays for any costs accountable to Lessee referred to in this Section, Lessee shall reimburse Lessor for such cost within ~~ten (10)~~ <sup>thirty (30)</sup> days from Lessee's receipt of Lessor's invoice.

6. Rent

A. Definitions

- (i) "Fixed Rent" shall be \$0.458 per Car for each hour such Car is on Lessee's railroad line.
- (ii) "First Rent Date" shall be the fifteenth (15th) day of the month immediately following the calendar month in which the Commencement Hour (as defined in Section 3.B.) occurs.
- (iii) "Last Rent Date" shall be the fifteen (15th) day of the month immediately following the calendar month in which the "Termination Date" (as defined in Section 2.D.) occurs.
- (iv) "Revenues" shall be the total revenues earned and due from other railroad companies for the use or handling of the Cars including, but not limited to, per diem and mileage, whether or not collected and received by Lessee and without regard to any claimed abatement, reduction or offset. Upon the occurrence of any such abatement, reduction or offset, Lessee shall, within ~~ten (10)~~ <sup>thirty (30)</sup> days of Lessor's request, reimburse Lessor for such amounts.

B. Lessee shall pay to Lessor during the Term of this Agreement as rent for each Car the following:

(i) On the First Rent Date, an amount equal to the Fixed Rent multiplied by the number of hours from and including the Commencement Hour to and including the last hour of the month in which such Commencement Hour occurs;

*EAD WFO*  
ON-LINE

(ii) For the fifteenth (15th) day of each month thereafter, to and including the calendar month in which the Termination Date occurs, an amount equal to the Fixed Rent multiplied by the number of hours in the prior month;

*EAD WFO*  
ON-LINE

(iii) On the Last Rent Date, an amount equal to the Fixed Rent multiplied by the number of hours from and including the first hour of the month in which the Termination Date occurs to and including the last hour of such Termination Date; and

*EAD WFO*  
ON-LINE

(iv) Within ninety (90) days after the end of each Service Month (as hereinafter defined), an amount equal to the Revenues earned by the Cars for such Service Month. For the purposes hereof, Service Month shall be defined as the calendar month in which the Cars earn Revenues under the terms of the Agreement.

C. (i) Lessee shall provide Lessor with such records as may be required to substantiate the following: (i) the date and hour each Car is placed for loading on Lessee's railroad lines pursuant to Section 3.B. and (ii) the date each Car is returned to Lessor pursuant to Section 9.

(ii) Upon Lessor's request, Lessee shall provide Lessor with any records of Lessee, including car hire summaries and detailed reports, as Lessor deems necessary to substantiate Revenues and Revenues actually received by Lessee. Further, Lessor shall be entitled to visit Lessee at any time during normal business hours to review any and all records required to determine Revenues and Revenues actually received by Lessee.

D. In the event either damage ~~beyond repair~~ or destruction of a Car has been reported in accordance with Rule 107 of the AAR Field Manual of Interchange Rules and Rule 7<sup>4</sup> of the AAR Code of Car Hire Rules and Interpretations - Freight, said destroyed Car shall be removed from the rental calculations of this Agreement on the date car hire ceased as set forth in the aforementioned Rule 7. ~~4~~ 8.

*WFO EAD*  
*WFO EAD*  
*WFO EAD*

7. 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 Cars in accordance with the terms of this Agreement and in the manner and

to the extent the Cars are customarily used in the railroad freight business as set forth in Subsection 7.B. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Lessor in connection with the acquisition of the Cars which are the subject of this Agreement. Accordingly, following notice to Lessee from any such secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Agreement), and is continuing under such financing agreement, such party may require either or both that rentals and other sums due hereunder shall be paid directly to such party, and that the Cars immediately be returned to such party. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars shall at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same are operated and 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 Lessor or Lessee may in good faith and by appropriate proceedings, contest the application of any such act, rule, regulation or order in any reasonable manner at the expense of the contesting party.

- B. The use of the Cars shall be limited to use by a rail common carrier and the Cars shall always bear the reporting marks of a rail common carrier. During the term of this Agreement, the Cars shall at all times be registered in the Official Railway Equipment Register and the UMLER.
- C. 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 arising through it, on, or with respect to the Cars, or any interest therein or in this Agreement or Schedule thereto. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

## 8. Default

- A. The occurrence of any of the following events shall be an event of default:
  - (i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within ~~ten (10)~~ <sup>WFO ED</sup> ~~thirty (30)~~ days after the date any such payment is due;
  - (ii) The breach by Lessee of any other term, covenant, or condition of this Agreement, which is not cured within ~~ten (10)~~ <sup>thirty (30)</sup> days thereafter;
  - (iii) The filing by or against the Lessee of any petition or the initiation by or against the Lessee of any proceeding: (a) for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder; or (b) under any bankruptcy, reorganization, insolvency, moratorium or other laws relating to the relief of debtors, the readjustment of indebtedness, financial reorganization, arrangements with creditors, compositions of indebtedness, or extensions of indebtedness. EJ  
WFS

(iv) The subjection of any of Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

B. Upon the occurrence of any event of default hereunder, without limiting Lessor's rights and remedies otherwise provided by law which shall be available to Lessor in addition to the following rights and remedies (no right or remedy of Lessor being exclusive but all such rights and remedies being available at all times to Lessor and Lessor in any case being entitled to recover all costs, expenses and attorneys' fees incurred by Lessor in enforcing its rights and remedies hereunder), Lessor may, at its option, terminate this Agreement and/or may

(i) Proceed by any lawful means to enforce performance by Lessee of this Agreement or to recover damages for a breach thereof, and/or

(ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon Lessor may enter upon any premises where the Cars may be located and take possession of the Cars and henceforth hold, possess and enjoy the same free from any right of Lessee. Lessor shall, in addition, 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, together with Lessor's costs and expenses, including reasonable attorneys' fees incurred in securing such enforcement hereof.

Lessor of such shop.

*ED*  
*WFB*

*ED*  
*WFB*  
*IN*

9. Termination

A. Upon the Termination Date (as defined in Section 2.D.) of this Agreement with respect to a Car, Lessee, at its expense, shall promptly return such Car to Lessor by delivering such Car to a shop ~~specified by Lessor~~ which shall be on Lessee's railroad tracks. Subsequent procedures, shall be as follows: /and shall promptly notify

Lessee shall restencil the Cars in accordance with Lessor's instructions and return the Cars ~~to~~ the same conditions as originally received by Lessee, normal wear and tear excepted. Restencilling, with respect to each Car, shall include the following: (a) removal of existing mandatory markings and all company logos of Lessee; (b) complete cleaning subsequent to the removal of markings; (c) application of new mandatory markings as designated by Lessor; and (d) any transportation involved in moving each Car to and from a suitable work area to perform the restencilling set forth in this Section. Lessee shall not remove Lessee's railroad marks from any Car without the prior written consent of Lessor. Subsequent to the completion of the restencilling of the Cars, Lessee shall, upon Lessor's request and at Lessor's sole option, and at Lessee's expense, deliver the Cars to any interchange points designated by Lessor on Lessee's railroad tracks and/or provide outbound loads for the Cars. Prior to such delivery of the Cars, Lessee shall provide storage for the Cars, as set forth in Section 9.B., upon the request of Lessor.

- B. In the event of expiration of the Initial Term or Extended Term, or termination by Lessee of this Agreement prior to the expiration of the Initial Term or Extended Term, the restencilling and storage of each Car set forth in Section 9.A. shall be at Lessee's expense; provided, however, that Lessee shall be responsible for the cost of storage of each Car for up to one hundred eighty (180) days following the Termination Date only. In the event of termination by Lessor of this Agreement prior to the expiration of the Initial Term or Extended Term, the restencilling and storage of each Car set forth in Section 9.A. shall be at Lessor's expense.
- C. In the event that any Car is not returned to Lessor on or before the Termination Date, all of Lessee's obligations under this Agreement, at Lessor's sole expense, shall remain in full force and effect, with respect to all Cars which have not been returned by Lessee to Lessor, until such Cars are returned to Lessor as set forth in Section 9.A. herein.

10. Indemnities

- A. LESSEE SHALL DEFEND, INDEMNIFY AND HOLD LESSOR HARMLESS FROM AND AGAINST ANY LOSS, DAMAGE, DESTRUCTION OR LIABILITY WITH RESPECT TO THE CARS WHICH IS OCCASIONED BY THE FAULT OF LESSEE OR WHICH OCCURS WHILE THE CARS ARE IN LESSEE'S POSSESSION OR CONTROL OR ARISES IN THOSE INSTANCES WHEN THE AAR INTERCHANGE RULES WOULD ASSIGN RESPONSIBILITY TO LESSEE FOR LOSS, DAMAGE, DESTRUCTION OR LIABILITY.
- B. SUBJECT TO SECTION 10.A., AND EXCEPT FOR THOSE CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS OR EXPENSES FOR WHICH LESSEE SHALL BE RESPONSIBLE AS SET FORTH HEREIN, LESSOR WILL DEFEND, INDEMNIFY AND HOLD LESSEE HARMLESS AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF OR TO THE CARS, USUAL WEAR AND TEAR EXCEPTED, AND ANY CLAIM, CAUSE OF ACTION, DAMAGE, LIABILITY, COST OR EXPENSE WHICH MAY BE ASSERTED AGAINST LESSEE WITH RESPECT TO THE CARS, INCLUDING WITHOUT LIMITATION, THE LEASING OR RETURN OF THE CARS, USE, MAINTENANCE, REPAIR, REPLACEMENT OR OPERATION OF THE CARS OR THE CONDITION OF THE CARS (WHETHER DEFECTS, IF ANY, ARE LATENT OR ARE DISCOVERABLE BY LESSOR OR LESSEE).

11. Representations, Warranties and Covenants

Lessee represents, warrants and covenants that:

- A. 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, insofar as is material to Lessor's rights under this Agreement, 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.

- B. 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 Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.
- C. 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 such that Lessee's ability to perform its obligations hereunder would be materially and adversely affected.
- D. There is no fact which Lessee has not disclosed to Lessor 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 obligation under this Agreement.

12. Inspection

Lessor shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure Lessee's compliance with its obligations hereunder.

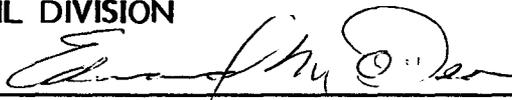
13. Miscellaneous

- 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, provided, however, that Lessee may not without the prior written consent of Lessor assign this Agreement or any of its rights hereunder or sublease any Cars 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 any financing agreement entered into by Lessor or its assignees in connection with the acquisition or financing or use of the Cars in order to confirm the financing parties' interest in and to the Cars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 of this Agreement.
- C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only and no joint sale or 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 Cars, except as a Lessee only.

- D. No failure or delay by Lessor shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Lessor nor shall any waiver or indulgence by Lessor 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 California.
- F. Lessee shall notify Lessor as soon as is practicable of any accident connected with the malfunctioning or operation of the Cars, including in such report, where available, the time, place and nature of the accident and the damage caused.
- G. Lessee shall also notify Lessor in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. Lessee shall furnish to Lessor promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.
- H. 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 herein.
- I. The obligations and liabilities of Lessor and Lessee hereunder shall survive the expiration or earlier termination of this Agreement.
- J. This Agreement represents the entire Agreement. This Agreement shall not be modified, altered, or amended, except by an agreement in writing signed by the parties.

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

ITEL CORPORATION,  
RAIL DIVISION

By: 

Title: President

Date: 7-7-82

THE ATCHISON, TOPEKA AND  
SANTA FE RAILWAY COMPANY

By: 

Title: Exec. V.P.

Date: 6-21-82

L-0310

EXHIBIT A

CERTIFICATE OF RESTENCILLING

<u>Previous Flatcar Marks</u>	<u>Current Flatcar Marks</u>	<u>Date of Restencilling</u>	<u>Previous Flatcar Marks</u>	<u>Current Flatcar Marks</u>	<u>Date of Restencilling</u>
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Istel Corporation, Rail Division  
Authorized Representative

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The Atchison, Topeka and Santa Fe  
Railway Company  
Authorized Representative

EXHIBIT B

Running Repairs

Angle Cocks

Air Hose

Train Line

Operating Levers in Brackets

Sill Steps

Grab Irons

Brake Shoes

Brake Shoe Keys

Brake Connecting Pin

Brake Head Wear Plates

In-Date-Test

Air Brakes

Hand Brakes

Truck Springs

Running Repairs continued

Wheels

Yokes

Knuckles/pins

Slack Adjuster

Pedestal Locks

Couplers

Draft Gears

Coupler Carriers

Center Plates

Lube of Hitches

Cotter Keys

Roller Bearing Adapters

Air Hose Supports

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

On this 7<sup>th</sup> day of July, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of ITEL Corporation, Rail Division, that the foregoing Lease Agreement was signed on behalf of said corporation and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Jody A. Blomgren  
Notary Public

STATE OF Illinois )  
 )  
 ) ss:  
COUNTY OF Cook )

On this ~~5th~~ <sup>21st</sup> day of ~~May~~ <sup>JUNE</sup>, 1982, before me personally appeared ~~W. J. Swartz~~ to me personally known, who being by me duly sworn says that such person is **Executive Vice President** of The Atchison, Topeka and Santa Fe Railway Company, that the foregoing Lease Agreement was signed on behalf of said corporation and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

E. M. Arreguin  
Notary Public  
E. M. Arreguin

My Commission Expires  
February 2, 1985

L-0310

EQUIPMENT SCHEDULE NO. 1

Itel Corporation, Rail Division hereby leases the following Cars to The Atchison, Topeka and Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of May 14, 1982.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
FC	70-Ton Flush Deck Flatcar	ATSF SPLC 901000-901490 (N.S.)	89'4"	N/A	N/A	N/A	245

ITEL CORPORATION,  
RAIL DIVISION

BY: *Edward M. De...*  
TITLE: *President*  
DATE: *7-7-82*

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY

BY: *W. J. ...*  
TITLE: *Exec. V.P.*  
DATE: *6-21-82*

L-0310

EQUIPMENT SCHEDULE NO. 2

Itel Corporation, Rail Division hereby leases the following Cars to The Atchison, Topeka and Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of May 14, 1982.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
FC	70-Ton Flush Deck Flatcar	ATSF SFLC 901000-901480 (N.S.)	89'4"	N/A	N/A	N/A	50

ITEL CORPORATION,  
RAIL DIVISION

BY: Edward M. De...  
TITLE: President  
DATE: 7-7-82

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY

BY: W. G. ...  
TITLE: Exec. V.P.  
DATE: 6-21-82

L-0310

EQUIPMENT SCHEDULE NO. 3

Itel Corporation, Rail Division hereby leases the following Cars to The Atchison, Topeka and Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of May 14, 1982.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
FC	70-Ton Flush Deck Flatcar	ATSF SFLC 901000 - 901480 (N.S.)	89'4"	N/A	N/A	N/A	186

ITEL CORPORATION,  
RAIL DIVISION

BY: Edward M. O'Donoghue  
TITLE: President  
DATE: 7-7-82

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY

BY: W. G. Swartz  
TITLE: Exec. V.P.  
DATE: 6-21-82

L-0310

EQUIPMENT SCHEDULE NO. 4

Itel Corporation, Rail Division hereby leases the following Cars to The Atchison, Topeka and Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of May 14, 1982.

A.A.R. Mech. Desig.	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
FC	70-Ton Flush Deck Flatcar	ATSF SFLC 105301 - 105800 (N.S.)	89'4"	N/A	N/A	N/A	219

ITEL CORPORATION,  
RAIL DIVISION

BY: Edward M. Dea

TITLE: President

DATE: 7-7-82

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY

BY: W. J. Swartz

TITLE: Exec. V.P.  
6-21-82

DATE: \_\_\_\_\_

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

On this 7<sup>th</sup> day of July, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of Intel Corporation, Rail Division, that the foregoing Equipment Schedule Nos. 1, 2, 3, and 4 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.



Jody A. Blomgren  
Notary Public

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) ss:

On this 21st day of June, 1982, before me personally appeared W.J. Swartz, to me personally known, who being by me duly sworn says that such person is Executive Vice President of The Atchison, Topeka and Santa Fe Railway Company, that the foregoing Equipment Schedule Nos. 1, 2, 3, and 4 were signed on behalf of said corporation and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

W. J. Swartz  
Notary Public