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ITEL

July 21, 1988

Itel Rail Corporation

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

RECORDED FOR FILING 5736

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

JUL 25 1988 - 11 30 AM

INTERSTATE COMMERCE COMMISSION

Re: Schedule 1 to Master Lease Agreement dated as of June 28, 1988, among Itel Rail Corporation, Itel Railcar Corporation and Peoria and Pekin Union Railway Company

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 \$13 recordation fee.

Please record this Schedule 1 under the Master Lease Agreement dated as of June 28, 1988, among Itel Rail Corporation, Itel Railcar Corporation and Peoria and Pekin Union Railway Company, which is being filed simultaneously this date.

The parties to the aforementioned instrument are listed below:

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

Peoria and Pekin Union Railway Company (Lessee)
101 Wesley Road
Creve Coeur, Illinois 61611

This Schedule 1 covers twenty-three (23) 50'6", 70-ton, XM boxcars bearing reporting marks PPU 2100-2119 and three numbers to be determined.

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

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RECORDATION NO. FILED 1988

JUL 25 1988 11 31 AM

INTERSTATE COMMERCE COMMISSION

SCHEDULE NO. 1 TO MASTER LEASE NO. 9326-01

2216-00

[Handwritten initials]

THIS SCHEDULE 1 ("Schedule") to that certain Lease Agreement, (the "Agreement") made as of ~~May 13~~, 1988 between ITEL RAIL CORPORATION and ITEL RAILCAR CORPORATION, severally, as lessors, and PEORIA AND PEKIN UNION RAILWAY COMPANY, as lessee ("Lessee") is made this 28th day of June, 1988, between ITEL RAILCAR CORPORATION ("Lessor") and Lessee.

Lessor and Lessee agree as follows:

1. All capitalized terms defined in the Agreement shall have the meanings defined therein when used in this Schedule No. 1.
2. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

AAR Mech. Design.	Description	Reporting Marks and Numbers	Length	Dimensions Inside Width	Height	Door Width	Number of Cars
XM	5277 cubic feet 70-Ton Steel Boxcars	PPU 2100-2119	50'6"	9'6"	11'	10'	20
XM	5277 cubic feet 70-Ton Steel Boxcars	PPU (numbers to be determined)	50'6"	9'6"	11'	10'	3

3. The term of the Lease with respect to the Cars described on this Schedule shall commence at 12 noon on the date and at the location each Car is remarked with respect to the three (3) Cars to be remarked ("Remarked Car(s)") and at 12 noon on March 1, 1988 for the twenty (20) Cars bearing reporting marks PPU 2100-2119 ("Existing Cars"). The Existing Cars and Remarked Cars are collectively referred to as the Car(s). The term shall continue as to the Cars described in this Schedule for three (3) years, from the date on which the first Remarked Car described in this Schedule was remarked (the "Term"). The Lease as to the Cars on this Schedule may be cancellable by Lessor upon thirty (30) days prior written notice. After delivery of the final Car, Lessor shall notify Lessee in writing of the expiration date of the Agreement with respect to the Cars described in this Schedule. Unless Lessee, within fifteen (15) days of such notice, demonstrates to the satisfaction of Lessor that such date is incorrect, the Lessee shall be deemed to have concurred to such date.
4. A. With respect to the Remarked Cars, each Car shall be deemed delivered and subject to the terms and provisions of the Agreement at 12 noon on the date and at the location such Car is remarked ("Delivery"). When a Car has been remarked, it shall be moved to Lessee's railroad line at no initial cost to Lessee at the earliest

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*June 28, 1988

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time consistent with the mutual convenience and economy of the parties. With respect to the Existing Cars, each Car shall be deemed delivered and subject to the terms and provisions of the Agreement at 12 noon on March 1, 1988 ("Delivery"). Lessee agrees to pay the rent set forth in the Agreement notwithstanding the fact that Lessee may not have immediate physical possession of the Cars leased hereunder. In order to move the Cars to Lessee's railroad line and to ensure optimal use of the Cars, Lessor agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Lessor, to assist in the issuance of movement orders to facilitate the movement of the Cars to other railroad lines in accordance with the Interstate Commerce Commission ("ICC") and the Interchange Rules.

5.
 - A. Lessee shall perform the record keeping and Lessor shall perform the registration required for the Cars described in this Schedule, as described in Section 4 of the Agreement.
 - B. Lessee shall submit to Lessor a monthly report in complete AAR format for all sums due to Lessee from Lessor for such calendar month with respect to the maintenance of the Cars, including sums due for maintenance performed by third parties and for maintenance performed by Lessee. Lessor shall pay to Lessee all sums due pursuant to this Subsection within thirty (30) days after receipt of such monthly maintenance report and bill.
6. Lessor shall perform or cause to be performed and shall pay all costs and expenses associated with the maintenance of the Cars described in this Schedule, except as set forth in Section 5 of the Agreement. With respect to the Cars listed in this Schedule, Exhibit B attached hereto is hereby substituted for Exhibit B to the Agreement, if any. Subsection 5.A. of the Agreement shall not apply with respect to such Cars.
7. Lessor agrees to reimburse Lessee, within thirty (30) days of Lessor's receipt of the receipted copy of the paid tax bill, for all taxes actually paid in cash by Lessee resulting from: 1) ad valorem tax assessments on the Cars; and 2) any assessment, levy or impost relating to any Car, the Agreement, or the delivery of the Cars, which remained unpaid as of the date of the delivery of the Cars to Lessee or which is assessed, levied or imposed during the term of the Agreement, except taxes on income or gross receipts imposed on Lessee or sales or use tax imposed on mileage charges, car hire revenue, or the proceeds of the sale or lease of the Cars. Lessor and Lessee will comply with all state and local laws requiring filing of ad valorem returns associated with the Cars. Notwithstanding any portion of this Section, Lessor shall not be responsible for penalty or interest assessments resulting from Lessee's failure to comply with any regulation or statute of any taxing or assessing authority. Lessee shall forward to Lessor upon receipt all correspondence, notifications of proposed tax assessments and tax bills associated with any tax reimbursable by Lessor. Lessor may, in good faith and by appropriate proceedings, contest any assessment, notification of assessment or tax bill. Lessor shall assume full responsibility for all expenses, including legal fees, resulting from such contest.

8. Rent

A. Definitions

- (i) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee as of the date this Schedule is executed by the parties. Unless Lessor and Lessee agree otherwise, any lines purchased by Lessee or added to the Eligible Lines during the Initial Term or any Extended Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined in Subsection 8.A.(iii) hereinbelow).
- (ii) "Revenue Rates" is defined as the hourly and mileage car hire rates prescribed for excluded boxcars in the Appendix to the ICC's decision in ICC Ex Parte No. 346, Sub-No. 19, served September 12, 1986, as found at paragraph (c)(3) of 49 C.F.R. 1039.14.
- (iii) "Revenues" is defined as the total revenues, calculated at the Revenue Rates, that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor, and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.
- (iv) The "Base Rent" is defined _____ per Car per calendar quarter. (Such amount shall approximate the Revenues which the Cars would have earned in the aggregate if the Cars had been on railroad lines other than Eligible Lines subject to the Agreement during such calendar quarter, with Base Rent for any Car which is not subject to the Agreement for an entire calendar quarter shall be prorated at _____ Car during such calendar quarter.
- (v) "Initial Loading" of a Car, shall be the earlier to occur of either: 1) the date such Car shall have been loaded off Lessee's railroad line with the first load of freight; or 2) the thirty-first (31st) day after such Car is received on Lessee's lines.

- B. Lessor shall receive all Revenues earned by each Car prior to its Initial Loading. Each Car delivered pursuant to Subsection 3.A. of the Agreement shall become subject to the rental calculation under Subsection 8.C. hereinbelow upon the Initial Loading of such Car; provided, however, that Lessor shall retain and be entitled to all Revenues earned by such Car after such Initial Loading, including any Revenues due Lessee pursuant to Subsection 8.C.(ii) ("Lessee's Revenue Share"), until the total amount of Lessee's Revenue Share retained by Lessor shall have become equal to Lessor's expenses for

remarked and delivering such Remarked Car to Lessee ("Delivery Expense").

- C. Lessee agrees to pay rent to Lessor for the Cars calculated as follows:
- (i) In the event Revenues earned in any calendar quarter or applicable portion thereof are equal to or less than the Base Rent, Lessor shall retain a sum equal to one hundred percent (100%) of the total Revenues.
 - (ii) In the event Revenues earned in any calendar quarter or applicable portion thereof exceed the Base Rent, Lessor shall retain an amount equal to the Base Rent and Lessee, subject to Subsection 8.B., shall receive one hundred percent (100%) of all Revenues received in excess of the Base Rent.
- D. (i) In the event that as a result of any action or inaction by Lessee, Lessor shall receive or earn for the use of any Cars, Revenues calculated at hourly or mileage car hire rates that are lower in amount than those specified in Subsection 8.A. (ii), Lessee shall pay to Lessor, within ten (10) days of Lessor's request, an amount equal to the difference between the Revenues such Cars would have earned at the Revenue Rates and the amount of revenues actually received or earned for such Cars.
- (ii) Should any abatement, reduction or offset occur as a result of any action or inaction of Lessee, Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor the amount of such abatement, reduction or offset.
- (iii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, then Lessee shall supply Lessor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on any other lines operated by Lessee.
- E. The calculations required in Section 8 shall be made within three (3) months of the end of each calendar year ("Final Calculations"). Lessee shall pay to Lessor by the sixtieth (60th) day after the end of each "Service Month" (as hereinafter defined), eighty percent (80%) of the total revenues for that Service Month. For the purposes hereof, "Service Month" shall be defined as the calendar month in which revenues were actually earned. At the time payment of eighty percent (80%) of the total revenues is made to Lessor, Lessee shall report to Lessor for the same month the hours earned, miles traveled and dollar figure for one hundred percent (100%) of the revenues. Ten percent (10%) of the revenues shall be remitted to Lessor within ninety (90) days after the end of each Service Month and the remaining ten percent (10%) of the total revenues shall be remitted to Lessor within one hundred twenty (120) days after the end of each Service Month. Lessor shall within three (3) months of the end of each calendar quarter, calculate on a quarterly year-to-date basis, the approximate amount, if any, due

either party pursuant to this Section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculations, provided, however, that within twenty (20) days following the Final Calculation, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.

- F. If any Car has remained on Lessee's property because Lessee has not given preference to the Car as specified in Subsection 3.B. of the Agreement, Lessee shall be liable for and remit to Lessor an amount equal to the revenues which would have been generated if such Car had been in the physical possession and use of a railroad for the entire period during which such Car is on Lessee's property.¹⁰
9. A. Lessee agrees to defend, indemnify and hold Lessor harmless from any and all claims, losses, damages, liabilities, costs, and expenses (including attorney's fees) with respect to, caused by, or arising out of the Cars (collectively, "Damages") which are occasioned by the fault of Lessee, occur while the Cars are in the Lessee's possession or control, or would be the "handling carrier's" responsibility under the Interchange Rules, as if the Cars were not bearing Lessee's reporting marks.
- B. Except as provided in Subsection 9.A. above, and except for those claims, losses, damages, liabilities and expenses for which Lessee shall be responsible as set forth in this Agreement, Lessor shall defend, indemnify and hold Lessee harmless from any and all loss, damage or destruction of or to the Cars, ordinary wear and tear excepted.

The indemnities and assumptions of liability contained in this Agreement shall survive the expiration or termination of the Agreement.

10. Upon the expiration or termination of the Agreement with respect to any Car(s) in this Schedule, Lessee shall surrender possession of said Car(s) to Lessor pursuant to Section 12 of the Agreement and shall promptly return said Car(s) to Lessor as follows:
- A. If some or all of the Cars are to be delivered to Lessor at Lessee's railroad tracks, Lessee shall be responsible for any transportation costs incurred in moving such Cars to said tracks subsequent to the time of expiration of this Agreement as to the Cars. Lessee shall, at Lessor's option, provide up to one hundred twenty (120) days free storage on its railroad tracks for any Car which is either on Lessee's railroad tracks at expiration or is subsequently returned to Lessee's railroad tracks. Said one hundred twenty (120) days shall run either from expiration or from the date such Car is returned to Lessee's railroad line subsequent to expiration, which date is later. If requested to do so by lessor, Lessee shall, at Lessor's option, either move a remarked Car to an interchange point on Lessee's lines selected by Lessor or use its best efforts to load the remarked Car with freight and deliver it to a connecting carrier for shipment.

Certificate of Acceptance

Lot 2216-00

EXHIBIT A

Exhibit A to Schedule No. 1 dated as of May 13, 1988 to Lease Agreement dated as of _____, by and between ITEL RAILCAR CORPORATION ("Lessor") and PEORIA AND PEKIN UNION RAILWAY COMPANY ("Lessee").

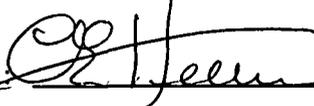
CERTIFICATE OF ACCEPTANCE

Itel Railcar Corporation
55 Francisco Street
San Francisco, California 94133

Ladies and Gentlemen:

The undersigned being a duly authorized representative of Lessee, hereby accepts ("Cars") bearing reporting marks and numbers as follows:

The last day of the Initial Term for the above referenced Remarkd Cars shall be _____.

By: 

Title: Pres - Genl Mnggr

Date: June 7, 1988

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

On this 28th day of June, 1988, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Railcar Corporation, that the foregoing Schedule No. 1 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 of corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Illinois)
) ss:
COUNTY OF Peoria)

On this 7th day of June, 1988, before me personally appeared C.E. Hellums, to me personally known, who being by me duly sworn says that such person is President & GM of Peoria and Peoria Union Ry Co that the foregoing Schedule No. 1 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 of corporation.

James M Hawkins
Notary Public