

ITEL

RECORDATION NO. 1 5578 Filed 1425

Itel Rail Corporation

April 1, 1988

APR 19 1988 - 10 15 AM

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

INTERSTATE COMMERCE COMMISSION

Date 4/19/88
Fee \$ 13.00
ICC Washington, D. C.

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

Re: Lease Agreement dated March 17, 1988, between Itel Railcar Corporation and Montana Rail Link

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 Lease Agreement under a new recordation number.

The parties to the aforementioned instrument are listed below:

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

Montana Rail Link (Lessee)
201 International Way
Missoula, Montana 59807

This Lease Agreement covers one hundred (100) covered hoppers bearing reporting marks MRL 438800-438978.

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:
Enclosures

1 5578
RECORDATION NO. _____ FILED 1988

Lot 2198-01

APR 19 1988 - 10 15 AM
INTERSTATE COMMERCE COMMISSION

02/24/88

RAILCAR LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") made as of this 7th day of March, 1988, between ITEL RAILCAR CORPORATION, a Delaware corporation, 55 Francisco Street, San Francisco, California 94133, as the lessor ("Lessor") and MONTANA RAIL LINK, a Montana corporation, with its principal place of business at 201 International Way, Missoula, Montana 59807, as the lessee ("Lessee").

1. Scope of Agreement

- A. Lessor agrees to lease to Lessee and Lessee agrees to and does hereby lease from Lessor, upon the terms and conditions set forth herein and in the applicable Schedule(s), railroad cars of the number of units, type, construction and other description (hereinafter referred to as the "Cars") as set forth in any executed Schedule(s) attached hereto. All Schedules shall be in the form of Schedule No. 1 hereto and shall contain such other terms and provisions as Lessor and Lessee may agree upon. The terms and provisions of the Schedule shall control over any inconsistent or contrary terms and provisions in the body of this Agreement.
- 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 will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

This Agreement shall be effective as to any Car on the date of delivery by Lessor of such Car, as provided in Section 3 hereof. The lease term with respect to all Cars covered by a particular Schedule shall continue for the period specified in such Schedule unless sooner terminated in accordance with the provisions of this Agreement. Upon the delivery of the final Car on each Schedule, Lessor shall provide written notice to Lessee of the expiration date of the Agreement with respect to the Cars on such Schedule. Unless, within fifteen (15) days of the date of such notice, Lessee demonstrates to the reasonable satisfaction of Lessor that such expiration date is wrong, Lessee shall be deemed to have concurred to such expiration date.

3. Supply Provisions

- A. Lessor shall deliver the Cars as promptly as is reasonably possible to the Initial Delivery Point specified in the applicable Schedule. Lessor shall be entitled to and shall receive all revenues earned by each Car prior to the arrival of such Car at the Initial Delivery Point. From and after the acceptance of any Car, Lessee shall be liable for issuing movement orders, and shall pay all costs, charges and expenses of any kind whatsoever on account of or relating to transportation of such Car.
- B. All Cars delivered under this Agreement shall be in satisfactory condition for movement in the normal interchange of rail traffic and shall otherwise comply with the description and specifications contained in the applicable Schedule; but Lessee shall be solely responsible for determining that the Cars are in proper condition for shipment and use. Within five days after Lessor has given Lessee notice that Cars are ready for delivery, Lessee may have its authorized representative inspect such Cars at the point specified in the notice and accept or reject them as to condition. Cars so inspected and accepted and any Cars which Lessee does not elect to inspect shall, upon delivery thereof to Lessee as above provided, be conclusively deemed to be accepted and subject to this Agreement and to meet all requirements of this Agreement.
- C. During the term of this Agreement, Lessor may, at its expense, replace any or all of the Cars with similar railcars upon prior written notice from Lessor to Lessee; provided, however, that any such replacement shall not prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor.

4. Record Keeping

This Section 4 shall apply only to Cars that bear Lessee's railroad reporting marks.

- 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 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: (i) preparation of appropriate AAR interchange agreements 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 ICC and any other regulatory agencies with respect to the Cars. Lessee shall register each Car in UMLER in such a manner that Lessor or its agent is allowed access to any required information with regard to any Car.

- 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, car hire reconciliation, collection and receipt of revenues from other railroad companies, records pertaining to maintenance and repair, and billing in accordance with the Interchange Rules. All record keeping performed by Lessee hereunder and all records 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. Upon Lessor's reasonable request, Lessee shall supply Lessor with telephone reports of the number of Cars in Lessee's possession or control.
- C. Lessee shall submit to Lessor a quarterly report in complete AAR format on all maintenance and repairs made on the Cars, including all repair charges received by Lessee during such quarter.

5. Maintenance, Tax and Insurance

- A. Lessee shall perform or cause to be performed and pay all costs and expenses of all Repair Work (as defined hereinbelow) without any abatement in rent or other loss, cost or expense to Lessor. Any parts, replacements or additions made to any Car shall be accessions to such Car and title thereto shall immediately vest in Lessor. In the event that Lessor performs any Repair Work for Lessee, all sums due for such Repair Work shall be additional rental hereunder. "Repair Work" shall be defined as all repairs, maintenance, modifications, additions or replacements required to keep and maintain the Cars in good working order and repair in accordance with and on the effective date of the requirements of all Interchange Rules and preventive maintenance necessary to keep and maintain the Cars in good working order and repair.
- B. 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.
- C. In the event that (i) any Car shall be or become lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or (ii) the purchase price of any Car shall have been refunded by the vendor to Lessor (or its transferee or assignee) pursuant to the terms of its patent indemnity therefor, or (iii) any Car shall be taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining term of this Agreement or by any other governmental entity resulting in loss of possession by the Lessee for a period of ninety (90) consecutive days or until the end of the term or any renewal term of this Agreement (such occurrences being hereinafter called "Casualty Occurrences") during the term or any renewal term of this Agreement, then Lessor may, but is not obligated to, at any time and from time to time, replace such Car ("Casualty Car") with a railcar of similar description as set

forth in the applicable Schedule ("Replacement Cars"), which Replacement Cars shall be deemed to be subject to all terms and conditions of this Agreement as if the same had been originally delivered to Lessee at the time and in the place of Cars for which they are substituted. The parties shall execute amendments to the Schedule applicable to such Cars and such other or further documents as may be required by either party hereto to evidence the withdrawal from and termination of this Agreement with respect to Casualty Cars, or to include any Replacement Cars with the terms and provisions of this Agreement and of any other document under which Lessor has assigned its rights under such Schedule, as permitted in this Agreement.

- D. In the event of any Casualty Occurrence, Lessee shall, within five days of its knowledge thereof, by written notice, fully advise Lessor of such occurrence. Except where Lessor shall have received payment for such Casualty Occurrence from a handling railroad or other party under and pursuant to Interchange Rules, Lessee shall, within 45 days after demand by Lessor, promptly pay Lessor the same amount as prescribed in the Interchange Rules for loss of such Car.
- E. Lessee shall be responsible for the Cars at all times while the Agreement remains in effect.
- F. Lessee shall, at all times while this Agreement is in effect, at its own expense, cause to be carried and maintained: (i) all-risk, physical loss or damage insurance with respect to the Cars while on Lessee's tracks or in Lessee's care, custody or control; and (ii) public liability insurance with respect to third party personal injury and property damage, in each case in such amounts and for such risks and with such insurance companies as are satisfactory to the Lessor. All insurance shall be taken out in the name of Lessee and shall name Lessor, any financing party designated by Lessor by written notice to Lessee ("Financing Party") and any assignee of Lessor as additional named insureds and shall also list Lessor, Financing Party and any assignee of Lessor as loss-payees on the insurance policies. Said policies shall provide that Lessor, Financing Party and any assignee of Lessor shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation thereof. In the event that Lessee fails to place insurance, or said insurance expires, Lessor has the right to purchase insurance to protect all interested parties and Lessee shall pay the cost thereof. With respect to the additional insureds, Lessee's insurance policies shall be primary to any other valid and available insurance ("Other Insurance") effected by, or for, the additional insureds. Lessee shall require its insurer specifically to waive subrogation, claim and recovery with respect to any Other Insurance. Any and all deductibles in the described policies shall be paid by Lessee. Each policy obtained by Lessee pursuant to this Section shall be in accordance with the above terms and conditions, and such terms and conditions shall be set forth on the Certificate of Insurance provided to Lessor pursuant to this

Subsection. Lessee shall furnish to Lessor concurrently with execution hereof, and within thirty (30) days of receipt of a written request from Lessor, and at intervals of not more than twelve (12) calendar months from execution hereof, Certificates of Insurance evidencing the aforesaid insurance. Lessee shall provide Lessor a Certified Copy of each insurance policy upon written request. In the event that, and only with Lessor's written approval, Lessee shall be permitted to self-insure on any specified interests, Lessee hereby warrants to place the Lessor in same position as if the relating insurance had been effected.

- G. 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 imposed on, incurred by or asserted against: (1) the Cars; (2) the 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 imposed on Lessor while Cars are on Lessee's lines. Lessee will comply with all state and local laws requiring filing of ad valorem tax returns associated with the Cars. Lessee's obligations under this Section are limited to amounts directly related to possession and use of the Cars.

6. Storage

Lessee shall be responsible for all costs associated with storing the Cars during the term of the Agreement.

7. Rent

- A. During the term of this Agreement, Lessee shall pay to Lessor for each Car, commencing on the actual date of delivery thereof, the monthly rental specified in the applicable Schedule. Lessee shall pay all sums due hereunder to Lessor in immediately available United States funds at the address provided in Section 12 hereof, or such other place as Lessor may direct. Rental payments shall be made monthly in advance on or before the first day of each month for which such rental is due, except that the first full month's payment shall, in addition, include rental covering any prior period of less than one month. All taxes reimbursable to Lessor pursuant to Subsection 5.G. shall be additional rental hereunder. Any nonpayment of rentals or other sums due under this Agreement, whether during the period within which a default may be cured or for a longer period, and whether or not deemed a default or violation of this Agreement, shall result in the obligation on the part of Lessee to pay also an amount equal to eighteen per cent (18%) per annum (or if such rate may not lawfully be charged, then the highest rate which may lawfully be charged) of such overdue sum for the period of time from one week after the date until such overdue sum is paid.

- B. Rental payments on any Car shall not abate for any reason whatsoever, including Repair Work.
- C. This Agreement shall continue in full force and effect with respect to any Casualty Car irrespective of the cause, place or extent of any Casualty Occurrence, the risk of which shall be borne by Lessee, provided, however, that this Agreement shall terminate with respect to any Casualty Car on the date Lessor shall receive all amounts granted it on account of such Car under this Agreement and thereafter Lessee shall have no further liability to Lessor under this Agreement with respect thereto excepting accrued rent and liabilities arising or existing under Section 5 hereof, and such Casualty Car shall become the property of Lessee provided Lessee is not in default under this Agreement and has made all payments required by this Agreement.

8. Use and Possession

- A. Throughout the continuance of this Agreement so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of each Car from and after delivery of such Car and shall use such Car on its own property or lines or in the usual interchange of traffic; provided, however, that Lessee agrees that the Cars shall at all times be used (i) in conformity with all Association of American Railroads ("AAR") Interchange Rules; (ii) in compliance with the terms and provisions of this Agreement; (iii) only within the continental limits of the United States of America or in temporary or incidental use in Canada; and (iv) in such service as will not constitute a train hauling predominantly a single commodity, such as coal or grain, between the same points on a regular basis, commonly referred to as a "unit train". However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement pursuant to which Lessor's obligations thereunder are or become secured by 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.
- B. At Lessor's election all Cars may be marked to indicate the rights of Lessor, or an assignee, mortgagee, trustee, pledgee or security holder of Lessor or a lessor to Lessor. Except for renewal and maintenance of the aforesaid lettering or lettering indicating that the Car is leased to Lessee or to a sublessee in accordance with demurrage tariffs, no lettering or marking shall be placed upon any of the Cars by Lessee and Lessee will not remove or change the reporting marks and numbers indicated on the applicable schedule except upon the written direction or consent of Lessor.
- C. Lessee shall 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, except those created for the benefit of Lessor or any owner or secured party referred to in Subsection 8.A. hereinabove. Lessee shall 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.

9. Default

A. If Lessee shall fail to make any payment required under this Agreement within 10 days after same shall have become due or shall default or fail for a period of 10 days in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part under this Agreement, or if a proceeding shall have been commenced by or against Lessee under bankruptcy laws, Federal or State, or for the appointment of a receiver, assignee or trustee of Lessee or its property, or if Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Lessor may at its election:

(i) terminate this Agreement as of the date of such default by written notice to such effect, and retake the Cars and thereafter recover as liquidated damages for loss of a bargain and not as a penalty, any and all damages sustained by reason of Lessee's default in addition to all rental unpaid as of said date and all rental that would have accrued, but for such termination, through and including the original expiration date of the Agreement; or

(ii) without terminating the Agreement repossess the Cars, and may relet the same or any part thereof to others upon such rental and other terms as it may see fit. The proceeds of any such reletting shall first be applied to the expense (including reasonable attorneys' fees) of retaking and reletting of the Cars and delivery to the new lessee and then to the payment of rent due under this Agreement. Lessee shall pay any deficiency remaining due after so applying the proceeds as the same shall accrue. Lessor shall not be obligated to accept any lessee offered by Lessee, or to do any act or exercise any diligence whatsoever in the procuring of another lessee to mitigate the damages of Lessee or otherwise. The election of Lessor to relet the Cars and the acceptance of a new lessee shall not operate to release Lessee from liability for any existing or future default in any other covenant or promise herein contained. The obligation to pay such deficiency or sum or sums due and unpaid or any damages suffered by reason of Lessee's default hereunder shall survive the termination of the Agreement and the retaking of the Cars.

B. The remedies provided in this Section 9 in favor of Lessor shall not be deemed exclusive but shall, where not by rule of law inconsistent with each other, be cumulative and may be availed of

singly, in combination, or all together and in any order, and shall be in addition to all other remedies in Lessor's favor existing at law or in equity.

- C. Lessee hereby waives any mandatory requirements of law now or hereafter in effect which might limit or modify any of the remedies herein provided to the extent that such waiver is permitted by law.

10. Expiration or Termination

Upon the expiration or termination of this Agreement with respect to any Car, Lessee shall at its sole cost and expense forthwith surrender possession of such Car to Lessor by delivering same to Lessor at any point on Lessee's line designated by Lessor. Each Car so surrendered shall be in the same or better condition, order and repair as when delivered to Lessee, and shall be free from all accumulations or deposits from commodities transported in or on the Cars while in the service of Lessee. If any Cars do not bear Lessor's reporting marks and numbers, Lessee shall place such reporting marks and numbers on any or all of the Cars as Lessor shall designate in writing to Lessee prior to the end of the term of the Agreement. Until the delivery of possession to Lessor pursuant to this Section 10, Lessee shall continue to be liable for and shall pay all rental at the rate being paid immediately prior to termination or expiration, and Lessee shall in addition make all other payments and keep all obligations and undertakings required of Lessee under any and all provisions of this Lease as though such termination or expiration had not occurred. Lessee agrees to provide storage at its expense, upon the request of Lessor, for any or all of the Cars for one hundred twenty (120) days from the date of expiration or termination of this Agreement. Nothing in this Section 10 shall give Lessee the right to retain possession of any Car after expiration or termination of this Agreement with respect to such Car.

11. Indemnities

- A. Lessee agrees to defend, indemnify and hold harmless Lessor and any agent, employee, parent, affiliate and assignee of Lessor from any damage, charge, claim, loss, suit expense (including attorney's fees) or liability arising out of, related to or connected with the Cars or this Agreement, excepting only any such loss, expense or liability which arises solely from Lessor's negligence.
- B. Lessor agrees to indemnify Lessee and save it harmless against any charge, loss, claim, suit, expense or liability arising out of or on account of the use or incorporation by Lessor upon delivery of a Car or upon the making of repairs thereto by Lessor, of the infringement of any patents; except if the invention was used or incorporated by reason of Lessee's specifications.

12. 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, insofar as is material to Lessor's rights under this Agreement, has the corporate power, authority and, is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.
- 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, except as provided in Section 8 hereinabove.
- 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 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 Lessee or the ability of Lessee to perform its obligation under this Agreement.

13. Inspection

Lessor shall have the right, upon forty-eight (48) hours prior notice to Lessee, to enter any premises where the Cars may be located at any time during normal business hours for the purpose of inspecting and examining the Cars to ensure Lessee's compliance with its obligations hereunder. Lessee shall, upon the request of Lessor but no more than once every year, furnish to Lessor its certified inventory of all Cars then covered by this Agreement.

14. Miscellaneous

- A. Lessee shall have no right to assign or sublease or loan any of the Cars without the prior written consent of Lessor; provided, however, that Lessee shall have the right to sublease any of the Cars for single trips within the continental limits of the United States to its customers or suppliers where the sole purpose of such sublease is to obtain exemption from demurrage on the subleased Cars. Any such sublease shall be upon terms which are in compliance with all applicable Interchange Rules, tariffs,

regulations and laws and all terms and conditions of this Agreement.

- B. All rights of Lessor under this Agreement may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part.
- C. Subject to the restrictions against assignment contained in Subsection 14.A. hereinabove, this Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.
- D. 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.
- E. 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 this Agreement.
- F. 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.
- G. The terms of this Agreement and all rights and obligations hereinunder shall be governed by the internal laws of the State of California and exclusive jurisdiction of any action with respect to the Agreement shall be in the courts located in the City and County of San Francisco, California.
- H. Any notice required or permitted to be given pursuant to the terms of this Agreement shall be properly given when made in writing, deposited in United States mail, registered or certified, postage prepaid, addressed to:

Lessor: Itel Railcar Corporation
55 Francisco Street
San Francisco, CA 94133
Attn: President

Lessee: Montana Rail Link
201 International Way
Missoula, Montana 59807
Attn: President

or at such other addresses as Lessor or Lessee may from time to time designate.

~~I. Lessee shall furnish Lessor promptly, upon their becoming available, with audited financial statements annually after the close of each accounting year, and, when requested, copies of any income or balance sheet statements required to be submitted to the ICC.~~

J. The obligations and liabilities of Lessor and Lessee hereunder shall survive the expiration or earlier termination of this Agreement.

K. 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.

L. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which may be evidenced by any such signed counterpart.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Agreement as of the day and year first above written.

ITEL RAILCAR CORPORATION

By: *D. H. Meyer*
Title: *President*
Date: *3/17/88*

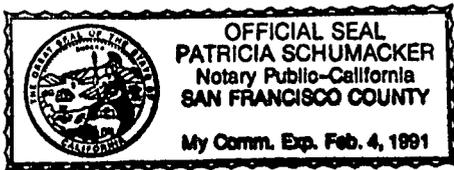
MONTANA RAIL LINK

By: *William H. Boudley*
Title: *President*
Date: *3/7/88*

I. Lessee shall furnish Lessor promptly, upon their becoming available, with statements of net worth and working capital, after the close of each accounting year. Such statements may be confirmed by letter to the Lessee's auditors. The Lessor may request copies of any income or balance sheet statements required to be submitted to the ICC.

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

On this 17th day of March, 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 instrument 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.



Patricia Schumacker
Notary Public

STATE OF Montana)
) ss:
COUNTY OF Missoula)

On this 7 day of March, 1988, before me personally appeared William H. Brodsky to me personally known, who being by me duly sworn, says that such person is President, of Montana Rail Link, that the foregoing instrument 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.

Melba H. Dy
Notary Public

SCHEDULE NO. 1

Page 1 of Schedule No. 1 dated as of March 7, 1988 to Lease Agreement dated as of March 7, 1988 by and between ITEL RAILCAR CORPORATION ("Lessor") and MONTANA RAIL LINK ("Lessee").

TYPE AND DESCRIPTION OF CAR: 3,000 cubic feet, 100-ton used covered hoppers (LO)

NUMBER OF CARS: one hundred (100)

INTERIOR OF CARS:

SPECIAL LININGS:

PERMITTED LADING USE:

REPORTING MARKS AND NUMBERS: MRL 438800-438978 (N.S.)

RESPONSIBILITY FOR INITIAL REMARK: Lessor, at Lessee's expense

SPECIFICATIONS DESIGNATED BY LESSEE:

INITIAL DELIVERY POINT: Laurel, Montana or Missoula, Montana

Page 2 of Schedule No. 1 dated as of March 7, 1988 to Lease Agreement dated as of March 7, 1988 by and between ITEL RAILCAR CORPORATION ("Lessor") and MONTANA RAIL LINK ("Lessee").

LEASE TERM: Upon delivery of each Car, through and including eighteen (18) months after the Average Date of Delivery for all Cars ("Initial Term"); one six(6)-month Extended Term. Lessor may, upon not less than thirty (30) days' written notice prior to the end of the Initial Term, elect to cancel this Schedule effective as of the end of the Initial Term.

MONTHLY RENTAL:

MINIMUM AVERAGE MONTHLY RENTAL PER CAR: N/A

SPECIAL TERMS: Section 4 of Agreement applies to Cars on this Schedule No. 1 because the Cars bear Lessee's reporting marks.

ITEL RAILCAR CORPORATION

MONTANA RAIL LINK

By: *D. H. Hayes*
Title: *President*
Date: *3/17/88*

By: *William H. Bandy*
Title: *President*
Date: *3/7/88*

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

On this 14th day of March, 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 corporation.



Patricia Schumacker
Notary Public

STATE OF Montana)
) ss:
COUNTY OF Missoula)

On this 7 day of March, 1988, before me personally appeared William H. Brodsky, to me personally known, who being by me duly sworn says that such person is President of Montana Rail Link, 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 corporation.

William H. Brodsky
Notary Public