

# ITEL RAIL

May , 1983

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

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclosed herewith on behalf of Itel Corporation for filing and recordation under Recordation No. 8870, the Lease Agreement dated as of June 28, 1977 between SSI Rail Corporation (predecessor to Itel Corporation, Rail Division) and Manufacturers Hanover Leasing Corporation, which was filed on June 30, 1977 at 2:30 p.m., four counterparts of the following document:

Assignment and Amendment of Lease Agreement dated as of February 7, 1983 (the "Assignment"), among Manufacturers Hanover Leasing Corporation, Itel Corporation, and Itel Rail Corporation.

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

1. Manufacturers Hanover Leasing Corporation  
270 Park Avenue  
New York, New York 10017
2. Itel Corporation, Rail Division  
55 Francisco, 7th Floor  
San Francisco, California 94133

The equipment covered by this Assignment is fifty (50) 50' 70-ton XM boxcars bearing reporting marks VSO 6250 - VSO 6299, ninety-nine (99) 70-ton XM boxcars bearing reporting marks MTW 4200 through MTW 4239 and MTW 4241 through MTW 4299, and one hundred (100) 50' 70-ton XM boxcars bearing reporting marks SRN 5200 through SRN 5299.

Please cross-index this filing under the following three recordation numbers, saying in each case "See Recordation No. 8870":

RECORDATION NO. **8870-B** Filed 1425

MAY 27 1983 -12 35 PM

55 Francisco  
San Francisco, California 94133  
(415) 955-9090  
Telex 34234  
INTERSTATE COMMERCE COMMISSION

**3-1514049**

No.

MAY 31 1983

Date.....

Fee \$ **40.00**

ICC Washington, D. C.

RECEIVED  
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I. C. C.  
OPERATION BR.

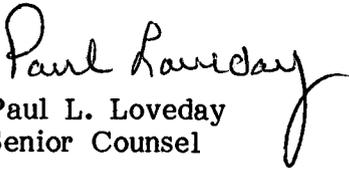
Ms. Agatha Mergenovich, Secretary  
May , 1983  
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1. Recordation No. 9407 - - Lease Agreement dated December 23, 1977 between Itel Corporation and Sabine River and Northern Railroad Company, filed on May 26, 1978 at 2:30 p.m.; and
2. Recordation No. 9406 - - Lease Agreement dated December 23, 1977 between Itel Corporation and Marinette, Tomahawk and Western Railroad Company, filed on May 26, 1978 at 2:30 p.m.; and
3. Recordation No. 9408 - - Lease Agreement dated December 23, 1977 between Itel Corporation and Valdosta Southern Railway Company, filed on May 26, 1978 at 2:30 p.m.

Also enclosed is a check in the amount of \$40.00 for the required recording and cross-indexing fees.

Please stamp all counterparts of the enclosed Assignment 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 returned to me.

Sincerely,

  
Paul L. Loveday  
Senior Counsel

PLL:dmm  
Enclosures  
cc: Linda Lawrence  
Itel Corporation

ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT  
MAY 27 1983 - 12 35 PM

INTERSTATE COMMERCE COMMISSION

This Assignment and Amendment of Lease Agreement ("Agreement") is entered into as of this the 7th day of February, 1983 between MANUFACTURERS HANOVER LEASING CORPORATION (the "Lessor"), ITEL CORPORATION, a Delaware corporation ("Itel") as successor in interest to SSI Rail Corp. ("SSI"), and ITEL RAIL CORPORATION, a Delaware corporation (the "Assignee").

Section 1. Recitals of Fact.

A. SSI and Lessor entered into a Railroad Equipment Lease Agreement dated as of June 28, 1977 (such Railroad Equipment Lease, as amended, shall hereinafter be referred to as the "Lease"). Pursuant to the Lease SSI leased from Lessor the railroad equipment described on Annex A, attached hereto. The Lease was filed and recorded with the Interstate Commerce Commission on June 30, 1977 at 2:30 p.m. and given Recordation Number 8870.

B. Itel merged SSI into itself pursuant to a Certificate of Ownership and Merger dated as of December 15, 1977. As a result of said merger, Itel, as the successor in interest to SSI, became the "Lessee" under the Lease.

C. On January 19, 1981, Itel filed a petition for reorganization pursuant to Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of California (the "Court"). A proof of claim (the "Proof of Claim") was filed with the Court on behalf of the Lessor.

D. Pursuant to the amended plan of reorganization dated as of December 8, 1982, filed in said reorganization proceeding (the "Plan of Reorganization") Itel will transfer to the Assignee substantially all of the assets utilized by Itel's rail division. The Plan of Reorganization further provides that the Assignee will conduct all of Itel's current and future rail operations (except for the management and marketing of Itel's residual interests in rail-related assets) and will continue Itel's railroad equipment leasing business as it is now conducted. In connection with the continuation of Itel's railroad equipment leasing business, Itel is willing to assume its obligations under the Lease, and assign all of its rights and obligations thereunder to the Assignee; provided that the Lessor releases Itel from all obligations with respect thereto and agrees to look only to Assignee for the performance of such Lease.

*[Handwritten initials and signature]*  
MLC

E. In connection with such Plan of Reorganization, Lessor has agreed to withdraw the Proof of Claim, <sup>on the Effective Date as defined in section 2 hereof.</sup> subject to the condition that the Plan of Reorganization becomes effective and provides for the assumption by Itel of the Lease and the assignment of such Lease to the Assignee.

F. The parties hereto desire by this Amendment to amend and supplement certain provisions of the Lease and to provide for the assumption by the Assignee of the due and punctual performance and observance of all the terms, covenants and conditions of and the due and punctual payment of all amounts payable under the Lease in like manner as if the Assignee were named therein in lieu of SSI (as predecessor in interest to Itel).

**Section 2. Effective Date.**

This Agreement shall become effective upon the effective date of the Plan of Reorganization (the "Effective Date"), provided that as of such Effective Date the assets of Itel which are contemplated in the Plan of Reorganization as being assigned to the Assignee have been so assigned.

**Section 3. Assignment and Assumption.**

A. Itel hereby assigns to the Assignee all of its right, title and interest in and to the Lease. The Lessor hereby consents to the foregoing assignment and agrees that Itel shall be relieved of all liabilities and obligations under the Lease and that only the Assignee shall be henceforth liable thereunder.

B. The Assignee hereby assumes the due and punctual performance and observance of all the terms, covenants and agreements of and the due and punctual payment of all amounts payable under the Lease in like manner as if named therein in lieu of SSI (as predecessor in interest to Itel).

**Section 4. Amendments to the Lease.**

A. The Lease is hereby amended by restating in its entirety the definition therein of "Lessee" to mean Itel Rail Corporation, a Delaware corporation.

B. Section 16 of the Lease is hereby amended by restating the address for notices required or permitted to be given by the Lessor to Lessee under such Lease as follows:

"If to the Lessee:

Itel Rail Corporation  
55 Francisco Street  
San Francisco, California 94133.

Attention of Vice President of Finance."

**Section 5. Termination of Guarantees.**

It is agreed by the parties hereto that all guarantees by Itel of the obligations of SSI under the Lease are terminated, and hence null and void.

**Section 6. Representations and Warranties of Itel and the Assignee.**

Itel and the Assignee jointly and severally represent and warrant that:

(a) They have full power, authority and legal right to execute and deliver this Agreement and to perform and observe the terms and conditions hereof.

(b) The execution and delivery by them of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of the terms hereof and thereof and the compliance by them with the terms and provisions hereof and thereof will not result in any violation of either of their

corporate charters or by-laws or in any breach of any applicable law, or any regulation, order, injunction or decree of any court or governmental instrumentality or of any of the terms, conditions or provisions of, or constitute a default under, or with notice or lapse of time, or both, constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any of its property or assets pursuant to, any indenture, agreement or other instrument to which either is a party or by which either may be bound.

(c) No authorization or approval of any governmental agency or commission or public or quasi-public body or authority of the United States of America, any state thereof or the District of Columbia, or of any department or subdivision of any thereof, is necessary for the due execution and delivery by them of this Amendment or for the validity of this Agreement or for the validity or enforceability of the Lease as against the Assignee.

Section 7. Representations and Warranties of the Lessor.

The Lessor represents and warrants that it has full power and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Agreement and to perform and observe the terms and conditions hereof and thereof as herein contemplated.

Section 8. Filings.

The Assignee shall, promptly after the execution and delivery of this Agreement, cause the same to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 49 U.S.C. 11303.

Section 9. Events of Default.

By the execution of this Agreement, the Lessor hereby waives all Events of Default which may have occurred prior to the effective date of this Agreement; provided that such waiver shall in no event constitute a waiver of Events of Default arising after the effective date of this Agreement.

<sup>Continuing or</sup>

Section 10. Miscellaneous.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York; provided that the parties shall be entitled to all rights conferred under any applicable Federal statute, rule or regulation.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed hereto and duly attested, all as of the date first above written.

ITEL CORPORATION, RAIL DIVISION

By Edward M. O'Dea  
Title President

ITEL RAIL CORPORATION

By *Edward M. De...*  
Title *President*

MANUFACTURERS HANOVER  
LEASING CORPORATION

By *Paul S. Alhade...*  
Title *S.V.P.*

~~[Corporate Seal]~~

Attest:

\_\_\_\_\_  
Assistant Secretary

*Sworn to before me this 8<sup>th</sup> day  
of April, 1983.*

*Harvey J. Cavayero*  
*Notary Public*

**HARVEY J. CAVAYERO**  
Notary Public, State of New York  
No. 4720964  
Qualified in New York County  
Commission Expires March 30, 1984

**ANNEX A**

**To Assignment and Amendment of Lease Agreement**

<b><u>Number of Units</u></b>	<b><u>Description</u></b>	<b><u>Reporting Marks</u></b>
99	70-ton 50'6" single sheath boxcars, A.A.R. mechanical designation XM, Plate C, 10' sliding door, Freight- master 10" end-of-car cushioning	MTW 4200 through MTW 4239 and MTW 4241 through MTW 4299
50	70-ton 50'6" single sheath boxcars, A.A.R. mechanical designation XM, Plate C, 10' sliding door, Freight- master 10" end-of-car cushioning	VSO 6250 through VSO 6299
100	70-ton 50'6" single sheath boxcars A.A.R. mechanical designation XM, Plate C, 10' sliding door, Freight- master 10" end-of-car cushioning	SRN 5200 through SRN 5299

STATE OF CALIFORNIA )  
County of San Francisco ) SS:

On this 4th day of May, in the year 1983, before the undersigned, a Notary Public in and for the State of California, personally appeared Edward M. O'Dea known to me (or proved to me on the basis of satisfactory evidence) to be President of Itel Corporation, acting through its Rail Division and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

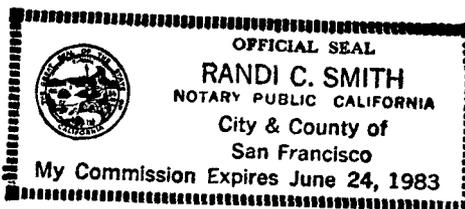
My Commission Expires:

Randi C. Smith

Notary Public for the State of California

[NOTARY SEAL]

STATE OF CALIFORNIA )  
County of San Francisco )



On this 4th day of May, in the year 1983, before the undersigned, a Notary Public in and for the State of California, personally appeared Edward M. O'Dea known to me (or proved to me on the basis of satisfactory evidence) to be President of Itel Rail Corporation, and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

My Commission Expires:

Randi C. Smith

Notary Public for the State of California

[NOTARY SEAL]

