



2-167A001

June 8<sup>th</sup>, 1992

REGISTRATION NO 17815 FILED 1992

JUN 15 1992 - 9 50 AM

INTERSTATE COMMERCE COMMISSION

Secretary, Interstate Commerce Commission  
12th and Constitution Avenue NW  
Room 2303  
Washington, D.C. 20423

Dear Secretary:

I have enclosed an original and one certified copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

This document is a railroad car lease agreement, a primary document, dated the 4th day of June, 1992.

The names and addresses of the parties to the documents are as follows:

Lessor: ITG, Inc.  
106 North Main  
Victoria, Texas 77901

Lessee: Iowa Electric Light and Power Company  
201 First Street S.E., 9th Floor  
P. O. Box 351  
Cedar Rapids, Iowa 52406

MOTOR OPERATING UNIT  
JUN 15 9 49 AM 1992

A description of the equipment covered by the document is as follows: 20 100-ton open top hopper railway cars, as more particularly described on the list attached hereto as Exhibit

A fee of \$17.00 is enclosed. Please return the original and any extra copies not needed by the commission for recordation to Craig G. Friemel at First Victoria National Bank, P. O. Box 1338, Victoria, Texas 77902.

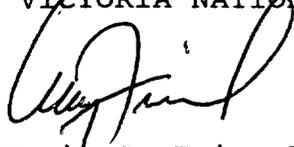
A short summary of the document to appear in the index follows: Railroad Car Lease between ITG, Inc., 106 North Main, Victoria, Texas, and Iowa Electric Light and Power Company, 201 First Street S.E., 9th Floor, P. O. Box 351, Cedar Rapids, Iowa 52406, dated June 4, 1992, and covering 20 100-ton open top hopper railway cars, initial numbers 11000 through 11019.

Secretary, Interstate Commerce Commission

Page 2 <sup>8th</sup>  
June 8<sup>th</sup>, 1992

Very truly yours,

FIRST VICTORIA NATIONAL BANK

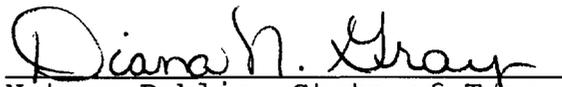


By: Craig G. Friemel  
Its Vice President

STATE OF TEXAS §

COUNTY OF VICTORIA §

This instrument was acknowledged before me on June 8<sup>th</sup>, 1992,  
by Craig G. Friemel, as Vice President of First Victoria National  
Bank, on behalf of said corporation.

  
\_\_\_\_\_  
Notary Public, State of Texas

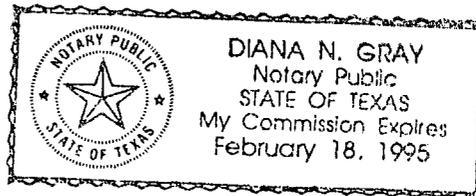


EXHIBIT A

Car Initial Numbers: 11000 through 11019  
Car Owner Marks: ITGX  
Class of Car: HTS/K340  
Number of Cars: Twenty (20)  
Capacity of Cars: 100-ton 3850 cu. ft.

Prior to purchase by Debtor, these cars were marked as follows:

PLMX 4012	PLMX 4029	PLMX 4058
PLMX 4013	PLMX 4032	PLMX 4062
PLMX 4014	PLMX 4033	PLMX 4066
PLMX 4017	PLMX 4034	PLMX 4070
PLMX 4026	PLMX 4047	PLMX 4071
PLMX 4027	PLMX 4049	PLMX 4078
PLMX 4028	PLMX 4057	

RAILROAD CAR LEASE AGREEMENT

JUN 15 1992 -9<sup>50</sup> AM

INTERSTATE COMMERCE COMMISSION

This Agreement, No. ITG-2365, made and entered into this 4<sup>th</sup> day of June, 1992, by and between I T G, Inc., a Texas Corporation with its principle office and place of business in Victoria, Texas (herein called "Lessor") and Iowa Electric Light and Power Company, an Iowa corporation with its principle office and place of business in Cedar Rapids, Iowa (herein called ("LESSEE")).

WITNESSETH:

Description of Leased Cars

1. Lessor agrees to furnish to Lessee, and Lessee agrees to rent from Lessor, the railroad cars shown on Rider No. 01, attached hereto and made a part hereof, and such additional Riders as may be added to hereto from time to time by mutual agreement of the parties and signed by each of their duly authorized representatives. Each Rider shall set forth a brief description of the car, or cars, car initials and numbers, the Association of American Railroad ("AAR"), or Interstate Commerce Commission ("ICC") specifications, cubic capacity, truck capacity, delivery point, rental term throughout which the cars shall remain in Lessee's service, and other pertinent information that may be desired by both parties.

Use of Cars

2. Lessee agrees to use said cars under the following restrictions:
- (a) The cars will be delivered to Lessee at Cornhusker Railcar Services, Grand Island, Nebraska, and Lessee agrees such cars shall be used and operated at all times in compliance with all lawful acts, rules, regulations, and orders issued by the railroads on which the cars are operated and government agencies.
  - (b) At the expiration or termination of the rental term of the particular Rider applicable to each such car described in such Rider, Lessee shall cause said cars to be returned freight prepaid to Lessor at a point so designated by Lessor not exceeding the mileage distance from the point where initial delivery was originally taken (Grand Island, Nebraska). Mileage in excess of this distance is for the account of the Lessor.
  - (c) At the request of the Lessor, the Lessee agrees to provide the Lessor up to 120 days free storage upon expiration of the initial lease term or extensions thereof.
  - (d) Lessor will cause all cars to be delivered to Lessee in AAR Interchange condition and ready for Lessee's intended service. The cars covered hereby shall be returned to Lessor in the then current AAR Interchange condition except for ordinary wear and tear. Any dispute on car condition will be resolved through binding arbitration. Each party shall choose an independent arbitrator who shall be a qualified rail car inspector. If these arbitrators fail to

agree, they shall choose a third arbitrator who shall be mutually agreeable to both parties. The cost of any arbitrator shall be equally borne by Lessor and Lessee.

- (e) Lessee agrees the cars will not be altered or modified and no advertising or logos shall be applied to any such car without the approval of Lessor.
- (f) Lessee agrees the cars are intended only for use in transporting the following commodity: Coal. The use of these cars for any other purpose is not permitted without prior written approval of Lessor, which will not be unreasonably withheld.
- (g) Lessee agrees that the cars will be operated only within the confines of the United States.

#### Rent

3. Lessee agrees to pay Lessor one month in advance the monthly rental as stated in the applicable Rider for each particular group of cars. Rental will commence on the first day of the first full month the cars are in service. The first and last monthly payments shall be prorated to include any partial months that the cars may be in service. Such rental shall be paid monthly to Lessor in Victoria, Texas, or in such other place as Lessor may hereafter direct in writing.

#### Term of Lease

4. The term of this Lease shall commence the date all cars are delivered to the Lessee and terminate no earlier than one hundred twenty (120) months or, as stated in the applicable Rider for each particular group of cars from such date, unless this contract is extended or renewed in writing by mutual agreement, or a new contract is executed.

#### Repair and Maintenance

5. After delivery of cars to Lessee, Lessee agrees to maintain the cars in accordance with the mechanical requirements specified in the Field Manual published by the AAR (or subsequent governing printed document), and to pay all costs of such maintenance and repair as the cars may from time to time require including all costs of repairing damages while such cars are in the possession of Lessee, shipper, consignee, or agent. Lessee shall make all contractual arrangements for all repairs notwithstanding who is responsible for the costs thereof. Lessee shall notify Lessor within three (3) full business days following knowledge of any damage requiring repairs to any of the cars. However, the rental shall not abate during the period repairs are being made.

If any car, while under the control of the Lessee, is completely destroyed or, in the opinion of Lessee and Lessor, such car's physical condition is such that it cannot be economically repaired to be operated in railroad service, Lessee will pay Lessor full settlement value. The term "settlement value" as used herein shall mean the valuation of such cars as set forth in the Rider No.

02 attached hereto and made a part hereof, or such future Riders to be issued applicable for additional groups of cars. Upon payment of "settlement value" this Lease will terminate with respect to that car. If the parties are unable to agree regarding the repair or regarding the destruction, they shall utilize the same procedures set forth in Paragraph 2(d) hereof regarding arbitration by independent railroad inspectors. However, the rental shall not abate during the resolution or settlement of any such dispute or any repairs being made unless so provided in binding arbitration.

### Indemnity

6. Lessee will indemnify Lessor against any loss, damage, claim, expense (including attorneys' fees and expenses of litigation) or injury imposed on, incurred by, or asserted against Lessor arising directly or indirectly out of Lessee's, its consignee's agents, or shippers' use, lease possession or operation of the cars during the term of the Lease, or by the contents of such cars, however, occurring, except any loss, liability, claim, damage or expense arising from latent defects and except for any loss, liability, claim, damage or expenses for which a railroad or railroads have assumed full responsibility and have satisfied such responsibility. All indemnities contained in the Agreement shall survive the termination hereof, however, same shall occur for a period of one year. Nothing herein shall be construed as an indemnification against Lessor's acts or omissions, negligent or otherwise.

Lessor will not enter into any settlements for personal injury or property damage claims with any third party without the Lessee having the opportunity to approve the reasonableness of the settlement.

### Insurance

7. Lessee shall, at its own cost and expense, at all times, maintain and furnish Lessor with evidence of insurance as follows:

- (a) General Liability Insurance in the amount of One Million Dollars (\$1,000,000.00) covering any loss or claim for damage arising out of or incurred in connection with the use, maintenance or operation of the cars covered by this Agreement.
- (b) All risk insurance covering physical damage to the cars to the full amount of the value of the car according to Rider No. 02. Lessee will effect physical loss insurance coverage prior to the receipt of the cars for service.

All such insurance shall name Lessor and 1st Victoria National Bank or any other lien holder designated by Lessor as co-insured. Lessee's obligation to maintain insurance with respect to each car shall continue until the lease thereof is terminated and, if such car is required hereunder to be returned to Lessor, until such return. Lessee shall cooperate and, to the extent possible, cause insurance companies providing such insurance to cooperate with Lessor in naming Lessor and its bank as co-insured with respect to the cars.

### Additional Charges by Railroad

8. All freight or demurrage or other charges made by a Railroad on account of the cars during the term of this Lease pursuant to Paragraphs 2(a) and (b) hereof, shall be paid by Lessee.

### Right of Entry

9. Lessor shall have the same rights as Lessee to enter the property where the cars are used or stored, at Lessor's own cost and during normal business hours, for the purpose of making car inspections. Lessor will provide Lessee 48 hours advance notice for a planned inspection.

### Payment of Taxes

10. During the term of the Agreement, Lessee shall promptly pay, when due, use, rental, and excise taxes, assessment and other governmental charges, whatsoever, whether payable by Lessor or Lessee, on or relating to the use of the cars leased hereunder prorated to the actual time covered by this Lease or extensions thereof. If for any reason Lessee fails to make full and prompt payment of any such charges, Lessor may, at its option, pay such charges and charge the amount so paid to Lessee. Any expense incurred by the Lessee with respect to contesting the applicability of such rental or use tax to this Agreement shall be payable by Lessee. Lessor specifically warrants and represents that as of the date of delivery of each and every car, all sales, use, rental and excise taxes, personal property taxes, assessments and other governmental charges due on such cars have been paid in full and Lessor agrees to indemnify and hold harmless Lessee from any obligations for such taxes.

Lessor is responsible for paying taxes on income generated from the lease of the cars.

### Liens

11. Lessee shall not cause or allow any encumbrances or liens to attach to the cars or otherwise permit a cloud on Lessor's title thereto.

### Marking of Cars

12. Lessee shall keep the cars, subject to lease, free of any markings which might be interpreted as a claim of ownership.

### Remedies

13. Upon the happening of any of the events of default as hereinafter defined, the Lessor or its assignee may then, or at any time thereafter, without notice, take possession of the car and any accessions thereto, wherever same may be found, and remove, keep or dispose of the same and the balance of unpaid rentals shall become due and payable in full. To the extent that any car is re-leased, Lessee shall only be responsible for paying any net rental deficiency during the remaining term of this Lease including the cost incurred in obtaining such re-lease. If any step is taken by legal action or otherwise by Lessor to recover

possession of equipment or otherwise enforce this Agreement or to collect monies due hereunder, Lessee shall pay Lessor the equivalent of the reasonable monies so expended or reasonable charges thus incurred in such behalf including all reasonable costs and attorneys' fees.

#### Default

14. The happening of any of the following events shall be considered an "event of default":

- (a) Nonpayment by Lessee, within ten days after written notice from Lessor demanding payment thereof.
- (b) Failure of Lessee to comply with, or perform, any of the other material terms and conditions of the Agreement within thirty (30) days after receipt of written notice from Lessor demanding compliance therewith and performance thereof.
- (c) The appointment of a receiver or trustee in bankruptcy for Lessee or any of its property and the failure by such receiver or trustee to adopt and assume and agree to perform the obligations of Lessee hereunder within thirty (30) days after such appointment.

#### Filing

15. Lessor intends to cause this Lease to be filed and recorded with the ICC pursuant to 49 U.S.C. Section 1103 of the Interstate Commerce Commission Act. Lessee shall from time to time do and perform any other act, and execute, acknowledge, deliver, any and all further instruments required by law, or reasonably requested by Lessor, for the purpose of protecting its title and rights, or for the purpose of carrying out the intention of this Agreement, and Lessee will promptly furnish to Lessor certificates or other evidences of all such filing, registering, and recording in form satisfactory to Lessor.

#### Inspection of Cars

16. Lessee shall inspect the cars and provide written notice of Lessee's acceptance of the cars. Said acceptance by the Lessee shall be conclusive evidence (i) of the fit and suitable condition of each car for the purpose of transporting coal then and thereafter loaded therein, and (ii) that they are the cars described in the Riders. At termination of Lease, a joint inspection will be made; and acceptance thereof by the Lessor shall be conclusive evidence (i) of the fit and suitable condition of such car as required by Paragraph 2(d) hereof, and (ii) that they are the cars described in the Riders.

#### Car Monitoring

17. Lessor will have the right to obtain information from Lessee concerning the location and movement of the cars subject to this Agreement.

## Notice

18. All notices provided for herein shall be given in writing and telefaxed, or sent by registered or certified mail, return receipt requested. The effective date of the notice shall be the date of the telefax transmittal receipt, or date of delivery shown on the return receipt. The respective addresses for notice shall be the addresses of the parties given in writing at the execution of the Agreement. Such addresses may be changed by either party giving written notice thereof to the other.

All telefaxed correspondence must request confirmation from the receiving party confirming legible receipt within one working day in order to qualify as "being delivered."

## Governing Law

19. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas, in which state it has been executed and delivered.

## Option to Extend

20. Lessee shall have the right to extend this Lease or purchase the cars upon completion of the initial term as presented in Rider No. 03 as attached hereto.

## Warranty

21. Lessor will provide a warranty covering defective materials and/or workmanship for a period of 90 days from date of cars entering Lessee's service. This warranty is of a workmanship nature only and is invalid in the event of car misuse, abuse, neglect, derailment, or wreck damage. Ordinary wear and tear is excluded from warranty coverage. All warranty claims must be communicated within five working days and Lessor reserves the right to cure all warranty claims internally, or advise Lessee on proper claim resolution.

## Assignment

22. Lessor shall have the right at any time to sell, assign, pledge or transfer all or any part of this Lease and/or the equipment covered thereby. Lessee shall not have the right to assign its interest in this Lease or sub-lease the equipment covered thereby without the prior written consent of Lessor. Such consent will not be unreasonably withheld.

## Entire Agreement

23. No other representations, warranties, promises, guarantees, or agreements, oral or written, expressed or implied, has been made by either party hereto with respect to this Agreement, except as expressly provided herein or executed by Letter Agreement contemporaneously herewith. This Agreement constitutes the entire Agreement between the parties hereto with respect to the leasing of the rail cars. Any change or modification of this Agreement must be in writing and signed by both parties hereto.

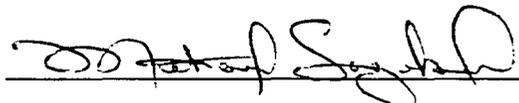
Waiver

24. Failure of either party to require performance of any provision of this Agreement shall not affect either party's right to require full performance thereof at any time thereafter, and the waiver by either party of a breach of any provisions hereof shall not constitute a waiver of a similar breach in the future or of any other breach or nullify the effectiveness of such provision.

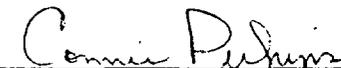
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed and sealed by their respective corporate officers and duly attested, as to the date first above written.

I T G, Inc.  
(Lessor)

(Corporate Seal)

By   
Title President

ATTEST:

By   
Title Secretary

Address:  
106 N. Main, Suite #200  
P.O. Box 1777  
Victoria, Texas 77902

IOWA ELECTRIC LIGHT AND POWER COMPANY  
(Lessee)

(Corporate Seal)

By   
Title Chairman of the Board and  
Chief Executive Officer

ATTEST:

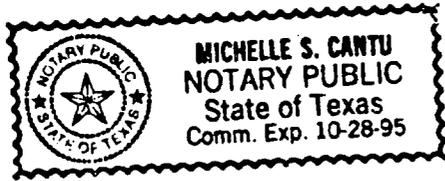
By   
Title SECRETARY

Address:  
201 First Street S.E., 9th Floor  
P.O. Box 351  
Cedar Rapids, Iowa 52406

STATE OF ( TEXAS  
CITY OF ( VICTORIA

On this 4th day of June, 1992, before me personally appeared Michael Sagebiel, to me personally known, who being by me duly sworn, says that he is the President of \_\_\_\_\_

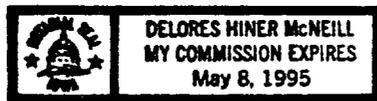
I T G, Inc., that the foregoing instrument was signed on behalf of said corporation, and he acknowledged that the execution of said instrument was his free act and deed.



*Michelle S. Cantu*  
NOTARY PUBLIC, STATE OF TEXAS

STATE OF IOWA     )  
COUNTY OF LINN    )

On this 3<sup>RD</sup> day of JUNE, 1992, before me, a Notary Public in and for said county, personally appeared LEE LUU and STEVEN CARR to me personally known, who being by me duly sworn, did say that they are the Chairman of the Board and Chief Executive Officer and SECRETARY of said corporation, that the seal affixed to said instrument is the seal of said corporation and that said instrument was signed and sealed on behalf of the said corporation by authority of its board of directors and the said LEE LUU and STEVEN CARR acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.



*Delores Hiner McNeill*  
NOTARY PUBLIC IN AND FOR  
THE STATE OF IOWA

RIDER NO. 01

To Master Agreement No. ITG-2365

It is hereby agreed that effective June 4, 1992, this Rider shall become a part of Master Car Agreement No. ITG-2365, between Iowa Electric Light and Power Company and I T G, Inc., dated June 4, 1992, and the cars described herein shall be placed in service subject to the terms set forth below:

CAR INITIAL NUMBERS: 11000 THRU 11019

CAR OWNER MARKS: ITGX

CLASS OF CAR: HTS/K340

NUMBER OF CARS: Twenty (20)  
~~Seventeen (17)~~ *WBS* 

CAPACITY OF CARS: 3850 Cu. Ft., 100-Ton

COMMODITY LIMITATION: Coal

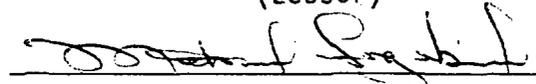
DELIVERY POINT: Cornhusker Railcar Services, Inc.  
Grand Island, Nebraska  
(UP or BN Originating Carrier)

TERMS OF RENT: \$225.00 Per Car Per Month Payable monthly in advance as provided for in Paragraphs 3 and 4 of Lease ITG-2365

TERMS: For a minimum of 120 months as defined in Paragraphs 3 and 4 of Lease ITG-2365

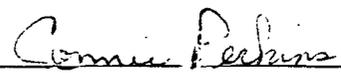
I T G, Inc.  
(Lessor)

(Corporate Seal)

By 

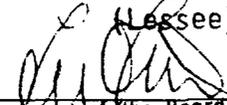
ATTEST:

Title President

By   
Title Secretary

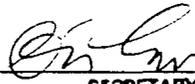
IOWA ELECTRIC LIGHT AND POWER COMPANY  
(Lessee)

(Corporate Seal)

By   
Chairman of the Board and

ATTEST:

Title Chief Executive Officer

By   
Title SECRETARY

RIDER NO. 02

To Master Agreement No. ITG-2365

It is hereby agreed that effective June 4, 1992, this Rider shall become a part of Master Car Agreement No. ITG-2365, between Iowa Electric Light and Power Company and I T G, Inc., dated June 4, 1992. In the event the car(s) are damaged or destroyed by Iowa Electric Light and Power Company, its agents, or material suppliers and the car(s) is beyond economical repair, the settlement value for such destroyed car(s) payable to I T G, Inc. with Iowa Electric Light and Power Company to retain the destroyed unit for its disposition is:

INSURANCE AND CASUALTY SCHEDULE

ITGX 11000 THRU 11016

The greater value of:

	<u>Year</u>	<u>Value</u>
A.	1 thru 3	\$20,000.00
	4	\$18,500.00
	5	\$17,000.00
	6	\$15,500.00
	7	\$14,000.00
	8 and thereafter	\$12,500.00

or

B. Rule 107 Settlement Value

(Corporate Seal)

ATTEST:

By Connie Pedersen  
Title Secretary

(Corporate Seal)

ATTEST:

By [Signature]  
Title SECRETARY

I T G, Inc.  
(Lessor)

By [Signature]  
Title President

IOWA ELECTRIC LIGHT AND POWER COMPANY  
(Lessee)

By [Signature]  
Title Chairman of the Board and Chief Executive Officer

RIDER NO. 03

To Master Agreement No. ITG-2365

It is hereby agreed that effective June 4, 1992, Lessee shall have the option (a) to extend this Lease for six (6) one-year (1-year) periods, or (b) purchase the cars at the then current fair market value. In the event both parties are not able to agree to a fair market value, the value may be established utilizing the same procedure as outlined in Paragraph 2(d). Any such extensions will be governed by all conditions of Lease ITG-2365 as dated June 4, 1992.

EXTENSION RENTALS

(a) Six (6), One Year (1-year) Extensions

(1) Year, 11, Extension 1	\$200.00 per car per month
(2) Year, 12, Extension 2	\$190.00 per car per month
(3) Year, 13, Extension 3	\$180.00 per car per month
(4) Year, 14, Extension 4	\$170.00 per car per month
(5) Year, 15, Extension 5	\$160.00 per car per month
(6) Year, 16, Extension 6	\$150.00 per car per month

(Corporate Seal)

ATTEST:

By *Conna Perkins*  
Title Secretary

(Corporate Seal)

ATTEST:

By *[Signature]*  
Title SECRETARY

I T G, Inc.  
(Lessor)

By *[Signature]*  
Title President

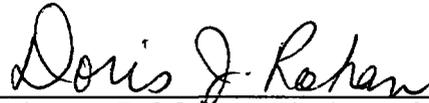
IOWA ELECTRIC LIGHT AND POWER COMPANY  
(Lessee)

By *[Signature]*  
Title Chairman of the Board and  
Chief Executive Officer

THE STATE OF TEXAS §

COUNTY OF VICTORIA § KNOW ALL MEN BY THESE PRESENTS:

I, the undersigned Notary Public, have compared the foregoing copy of the Railroad Car Lease Agreement with the original Railroad Car Lease Agreement and have found the copy to be complete and identical in all respects to the original document.



\_\_\_\_\_  
Notary Public, State of Texas

Doris J. Rohan