

ITEL

IteI Rail Corporation

550 California Street
San Francisco, CA 94104
(415) 984-4200

March 26, 1992

RECORDATION NO. 15702 F
FILED

MAR 27 1992 - 3 52 PM

INTERSTATE COMMERCE COMMISSION

2-087A068

Hon. Sidney L. Strickland, Jr., Esq.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Schedule No. 5

Dear Mr. Strickland:

On behalf of IteI Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$16 recordation fee.

Please record the subject Schedule under the Lease Agreement dated June 9, 1988, between IteI Rail Corporation and McCormick, Ashland City & Nashville Railroad, Inc., which was filed with the ICC on July 5, 1988, under recordation number 15702.

REC'D
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NORTH OPERATING UNIT

The parties to the aforementioned instrument are listed below:

IteI Rail Corporation (Lessor)
550 California Street
San Francisco, California 94104

McCormick, Ashland City & Nashville Railroad, Inc. (Lessee)
750 Old Hickory Boulevard
Two Brentwood Commons, Suite 150
Brentwood, Tennessee 37027

This Schedule adds to the Lease Agreement thirty-five (35) 50'6", 70-ton, Plate C, XM boxcars bearing reporting marks MACO 155-189.

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
Legal Assistant

Interstate Commerce Commission
Washington, D.C. 20423

3/31/92

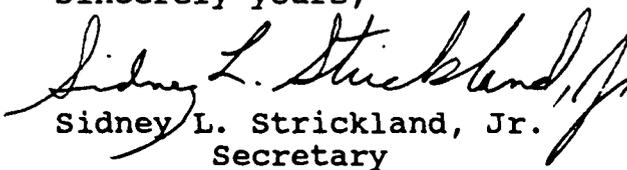
OFFICE OF THE SECRETARY

Patricia Schumacker
Legal Assistant
Itel Rail Corporation
550 California Street
San Francisco, California 94104

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/27/92 at 3:50pm, and assigned recordation number(s). 10362-W, 15702-F, 16412-D, 17756, 17756-A & 17756-B
16026-E

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

15702 F

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SCHEDULE NO. 5

INTERSTATE COMMERCE COMMISSION

THIS SCHEDULE NO. 5 ("Schedule") to that certain Lease Agreement (the "Agreement") made as of June 9, 1988 between ITEL RAIL CORPORATION as successor in interest to Itel Rail Corporation and Itel Railcar Corporation ("Lessor") and MCCORMICK, ASHLAND CITY AND NASHVILLE RAILROAD, INC. ("Lessee") is made this 19 day of March, 1992.

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. 5, except that the term "Cars" as used herein shall only refer to the equipment described in this Schedule unless otherwise indicated.
- 2. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

AAR Mech	Desig. Description	Numbers	Dimensions				No. of Cars
			Length	Height	Width	Doors	
XM	50', 70-ton, Plate C	MACO 155-189	50'6"	11'1"	9'6"	10' Sliding	35

- 3. The term of the Agreement with respect to each Car described in this Schedule shall commence at 12 noon on the date such Car is remarked ("Delivery") and shall continue as to all of the Cars described in this Schedule for 5 years from the earlier of (i) the date on which the last Car described in this Schedule was marked with Lessee's reporting marks or (ii) 120 days from the date the first of the Cars described in this Schedule is physically interchanged onto Lessee's lines (the "Term"). Upon the delivery of the final Car, Lessor shall provide Lessee with a Certificate of Delivery that shall contain the date each Car was remarked and the expiration date of the Term with respect to all the Cars. Unless Lessee, within 14 days of such notice, demonstrates to the satisfaction of Lessor that such date is incorrect, then Lessee shall be deemed to have concurred to such date.
- 4. When a Car has been remarked, it shall be moved to Lessee's railroad line at the earliest time that is consistent with the mutual convenience and economy of the parties. 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. Lessor shall perform the registration and record keeping required for the Cars described in this Schedule, as described in Section 4 of the Agreement.
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 those delegated to Lessee in Section 5.B. of the Agreement. With respect to the Cars listed in this Schedule, Exhibit A attached hereto is hereby added to the Agreement. Subsection 5.A. of the Agreement shall not apply with respect to such Cars.
7. Lessor agrees to reimburse Lessee, within 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
as of the date this Schedule is
executed by the parties. Any lines purchased by Lessee
or added to the Eligible Lines or any Eligible Lines sold
by Lessee to another party during the Term, effective on
the date of such sale, 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
specified for each Car in the Hourly and
Mileage Car Hire Rate Table published in the July 1991
edition of The Official Railway Equipment Register, as may

be updated from time to time.

(iii) "Revenues" is defined as the total 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, 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 "Minimum Rent" is defined as the dollar amount for any calendar quarter (or applicable portion thereof) ("Quarter") which equals the the Cars would have earned in the aggregate during such Quarter if such Cars had been on railroad lines other than Eligible Lines for 55 days during such Quarter, with each Car traveling 70 miles per day and with each car earning Revenues at the Revenue Rates.

B. (i) Lessee shall pay as rent to Lessor earned by the Cars.

(ii) Effective from December 1, 1991, Lessor shall pay Lessee as follows:

(a) for each Car loaded on the Eligible Lines to destinations beyond the Eligible Lines ("Primary Load(s)"). Within 30 days after the end of each calendar month ("Month"), Lessee shall provide Lessor with an invoice which shall list the reporting marks and numbers of each Car that received a Primary Load during such Month, the date that each Car was loaded, and the total amount due Lessee from Lessor for such Month.

(b) for each load a Car receives on railroad lines other than the Eligible Lines ("Secondary Load(s)"). Lessor solely shall determine which Cars received Secondary Loads during a Month and the amount owed Lessee.

(c) Lessor shall pay Lessee all amounts owed Lessee pursuant to the terms hereof for each Month (i) for Primary Loads within 30 days of receiving the invoice from Lessee for such Month and (ii) for Secondary Loads within 45 days from the last day of the Month in which such Secondary Load(s) occurred.

C. (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 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 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, 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.

D. Any agreement between Lessee and any other party with respect to the Cars ("Third Party Agreement(s)") shall be null and void without Lessor's prior written approval if such Third Party Agreement affects the revenues earned by the Cars.

E. If, with respect to any calendar quarter, Revenues received by Lessor for the Cars in the aggregate while they were on railroad lines other than the Eligible Lines are less than the total Minimum Rent for the Cars described in this Schedule, then Lessor may so notify Lessee. Within 10 days of receipt of such notice from Lessor, Lessee shall either:

(i) Pay Lessor the difference ("Difference") between the Minimum Rent and the actual Revenues for such calendar quarter and agree to pay the Difference for any subsequent calendar quarter for the duration of the term of the Agreement with respect to the Cars in this Schedule in which such Difference occurs. Lessee shall pay Lessor such Difference not later than 60 days after receiving an invoice for such Difference.

(ii) Elect not to pay Lessor such Difference for such quarter. In such event, Lessor may terminate all or any of the Cars described in this Schedule from the Agreement upon not less than 30 days written notice to Lessee at any time during the duration of the Agreement.

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 due to such failure, with each Car traveling 60 miles per day.

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 which are occasioned by the fault of Lessee, occur while the Cars are in 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 indemnify and hold Lessee harmless from any and all loss, damage or destruction of or to the Cars, ordinary wear and tear excepted.
 - C. 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 the Car(s) described in this Schedule, 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 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 120 days shall run either from expiration or from the date such Car is returned to Lessee's railroad line subsequent to expiration, whichever 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.
11. Except as expressly modified by this or any other Schedule, all terms and provisions of the Agreement shall remain in full force and effect with respect to all Cars subject to the Agreement.

12. This Schedule may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

Each party, pursuant to due corporate authority, has caused this Schedule to be executed by its authorized officer or other employee, and each of the undersigned declares under penalty of perjury that he or she holds the title indicated below, that the execution of this Schedule was the free act and deed of the corporation, the foregoing is true and correct and this Schedule was executed on the date indicated below.

ITEL RAIL CORPORATION

By: Robert Kralik
Title: Vice President, Finance
Date: 3-19-92

MCCORMICK, ASHLAND CITY AND NASHVILLE RAILROAD

By: Larry McCormick
Title: Presd
Date: 2-5-92

EXHIBIT A

Running Repairs: Boxcars

Angle Cocks	Wheels
Air Hose	Yokes
Train Line	Knuckles/Pins
Operating Levers and Brackets	Slack Adjuster
Sill Steps	Couplers
Grab Irons	Draft Gears
Brake Shoes	Coupler Carriers
Brake Shoe Keys	Center Plate Repair (Not Replacement of Center Plate)
Brake Connecting Pin	Cotter Keys
Brake Head Wear Plates	Roller Bearing Adapters
Air Brakes	Air Hose Supports
Hand Brakes	
Brake Beams and Levers	
Truck Springs	
Door Hardware (Not Replacement of Door)	