

STEPTOE & JOHNSON

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE  
WASHINGTON, D. C. 20036

ROBERT J. CORBER  
(202) 429-8108

1 6144-A

RECORDATION NO. \_\_\_\_\_ FILING DATE

1 6144

January 5, 1989

JAN 5 1989 11:44 AM

INTERSTATE COMMERCE COMMISSION

JAN 5 1989 11:44 AM

INTERSTATE COMMERCE COMMISSION

Ms. Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
Room 2215  
Washington, D.C. 20423

No. 9-005A038

Date JAN 5 1989

Fee \$ 26.00

ICC Washington, D. C.

JAN 5 11 53 AM '89  
100

Dear Ms. McGee:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. §11303 are the original and three (3) copies of the documents hereinafter described. They relate to the railroad equipment identified below.

1. Sale and Lease Agreement dated as of December 29, 1988, between General Electric Railcar Services Corporation, lessor, and Brae Transportation Group Corporation, lessee.
2. Assignment of Rents and Security Agreement dated as of December 29, 1988 between Brae Transportation Group Corporation, assignor, and General Electric Railcar Services Corporation, assignee.

The equipment subject to these documents consists of 427 covered hopper railcars bearing the marks BRAX 8556 - 8594, 8596 - 8638, 8640 - 8664, 8666 - 8755, 8778 - 8781, 8783, 8786 - 8788, 8790 - 8793, 8800 - 8982, 8984 - 8998, 9041, 9100 - 9111, 9200 - 9206, inclusive.

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

Lessor-Assignee: General Electric Railcar Services Corp.  
33 West Monroe Street  
Chicago, Illinois 60603

Less<sup>ee</sup> Assignor: Brae Transportation Group Corporation  
160 Spear Street  
San Francisco, CA 94105

A fee of \$26.00 is enclosed. Please return the

*County part - Shirley A. Corsetti*

Ms. Noreta McGee  
January 5, 1989  
Page 2

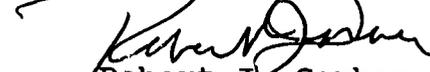
original and any extra copies not needed by the Commission for recordation to the person presenting this letter.

A short summary of each document to appear in the index follows:

1. Sale and Lease Agreement dated as of December 29, 1988, between General Electric Railcar Services Corporation and Brae Transportation Group Corporation, covering 427 covered hopper railcars as identified in the document.

2. Assignment of Rents and Security Agreement dated as of December 29, 1988 between Brae Transportation Group Corporation and General Electric Railcar Services Corporation, covering 394 covered hopper railcars as identified in the primary document.

Very truly yours,



Robert J. Corber  
Attorney for  
Brae Transportation  
Group Corporation

Enclosures as stated

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

This Assignment of Rents and Security Agreement is entered into as of December 29, 1988 between BRAE TRANSPORTATION GROUP CORPORATION, a California corporation (the "Assignor") and GENERAL ELECTRIC RAILCAR SERVICES CORPORATION, a Delaware corporation (the "Assignee").

RECITALS

The Assignee and the Assignor have entered into a Sale and Lease Agreement ("the Agreement") of even date herewith whereby the Assignee has agreed to lease to the Assignor 427 Covered Hopper Railcars (the "Cars"), to which Agreement reference is hereby made for a more complete description of the Cars.

The Assignor and Cargill, Incorporated, a Minnesota corporation (the "Sublessee"), with its principal place of business at 15615 McGinty Road, West Minnetonka, Minnesota 55345, have entered into a Lease Agreement (the "Sublease") dated December 22, 1988, whereby the Assignor, as Sublessor has subleased the Cars to Sublessee.

The Assignee's consent to the subleasing of the Cars by the Assignor to the Sublessee is conditioned upon the Assignor's assigning to the Assignee, as security for the Assignor's obligations to the Assignee under the Agreement, all of the Assignor's right, title and interest in and to the Sublease and the proceeds deriving therefrom.

It is mutually agreed as follows:

1. Assignment of Rents and Grant of Security Interest. The Assignor, in order to secure the prompt performance of its obligations to the Assignee under the Agreement, does hereby assign and transfer to and grant a security interest in favor of the Assignee in the Sublease and any sublease substituted therefor (also, a "Sublease"), and all proceeds thereof and earnings with respect to the Cars from whatever source, including, without limitation, all rentals, insurance and insurance proceeds, Car hire payments, indemnity payments, termination payments, and all other monies due or to become due thereunder, and all rights of the Assignor to execute any election or option or to give any notice, consent, waiver or approval under or in respect of the Sublease, as well as all rights, powers or remedies on the part of the Assignor whether arising under the Sublease or by statute, at law, in equity or otherwise, arising out of any Event of Default (as defined in the Sublease).

2. No Assignment of Assignor's Obligation. It is expressly agreed, notwithstanding anything herein to the contrary, that the Assignor shall remain liable under the Sublease to perform all of

the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions of the Sublease, and Assignor does hereby covenant with Assignee that it will keep and perform all of the obligations to be performed on the part of the Assignor under the Sublease and will save the Assignee harmless from any failure to do so. The Assignee shall have no obligation or liability under the Sublease by reason of or arising out of this Assignment of Rents and Security Agreement, nor shall the Assignee be required or obligated in any manner, to perform or fulfill any obligation of the Assignor under or pursuant to the Sublease, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim, or to take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.

3. Assignee May Act For Assignor. The Assignor does hereby constitute the Assignee the true and lawful attorney of the Assignor, irrevocably, with full power, upon the occurrence of any Event of Default under the Agreement or a default hereunder, (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for monies due and to become due from the Sublessee under or arising out of the Sublease, or any document contemplated thereby, to endorse any checks or other instruments or orders in connection therewith and to file claims or take any actions or to institute any proceedings which the Assignee may deem to be necessary or advisable in the premises. Assignor authorizes and empowers the Assignee to collect and receive directly from the Sublessee all monies now due or to become due under the Sublease. If any assigned monies are received by the Assignor, the same will be received by the Assignor as trustee for the Assignee and will be immediately delivered in kind to the Assignee without commingling. In addition, the Assignee shall have all of the rights and remedies afforded a secured party under the Uniform Commercial Code. Assignee shall in no way be deemed to be under any duty to act for or on behalf of Assignor under the powers herein provided.

4. Representations, Warranties and Covenants of the Assignor. The Assignor hereby warrants and represents that it has not assigned, pledged, or otherwise encumbered, and hereby covenants that it will not assign, pledge, or otherwise encumber so long as this Assignment of Rents and Security Agreement shall remain in effect, any of its right, title or interest hereby assigned to anyone other than the Assignee, and that it has full right and authority to enter into and perform this Assignment of Rents and Security Agreement in accordance with its terms. The Assignor will not, without the prior written consent of the Assignee, agree to, consent to or permit any assignment with respect to the Sublease as it relates to the Cars, or any amendment, modification, or waiver which would impair the security of the Assignee in the Sublease. Assignor covenants to reimburse the Assignee upon demand for any expense, including legal fees

reasonably incurred by the Assignee in the exercise of the powers conferred upon Assignee hereunder, together with interest thereon at the rate of 15% per annum, or the highest lawful rate, whichever is the lesser, from the date upon which such expenses are incurred.

5. Payments under Sublease. All amounts and payments to be made by Cargill under the Sublease shall be made to trustee under the Trust Agreement between Assignor, Assignee and National Bank and Trust Company of Chicago of even date herewith (the "Trust") so long as no event of default has occurred under the Agreement or hereunder.

6. Notice of Assignment. Assignor shall promptly give Sublessee written notice of this Assignment of Rents and Security Agreement and provide Assignee with evidence that it has given such notice to Sublessee.

Assignor further agrees that it shall conspicuously mark all of its copies of the sublease with the following legend:

"THIS LEASE AGREEMENT IS SUBJECT TO AN ASSIGNMENT OF RENTS AND SECURITY AGREEMENT MADE BY BRAE TRANSPORTATION GROUP CORPORATION TO GENERAL ELECTRIC RAILCAR SERVICES CORPORATION"

that it will deliver to Assignee the copy of the Sublease marked "Original," that it will file a counterpart of this Assignment of Rents and Security Agreement with the Interstate Commerce Commission in accordance with the Interstate Commerce Act and will file all Uniform Commercial Code financing statements and continuations thereof, and take such other actions, all at its own expense, as may be required from time to time in order to perfect and continue the perfection of this Assignment of Rents and Security Agreement.

6A. Default; Remedies. If an event of default has occurred under the Agreement of if Assignor has defaulted under the terms of this Assignment of Rents and Security Agreement, Assignee shall have the following remedies in addition to any other remedies it may have under the Agreement, the Uniform Commercial Code, in state law or in equity;

a. to direct payment to Assignee by all parties owing money to Assignor with respect to the Sublease or the Cars, including, without limitation, Cargill, any railroad owing car hire payments and American National Bank and Trust Company of Chicago as trustee under the terms of the Trust:

b. to give notice to sublessee that Assignee is replacing Assignor as lessor under the Sublease and to continue to hold Assignor responsible for obligation as lessor under the Sublease.

No remedies provided herein or under the Agreement shall be exclusive of any other remedy available.

7. Miscellaneous. This Assignment of Rents and Security Agreement may be executed by the parties hereto in separate counterparts. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof, and any such provision or unenforceability in any jurisdiction shall not invalidate or render unenforceable such a provision in any other jurisdiction. To the extent permitted by applicable law, the Assignor hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect. No provision hereof may be changed, waived, or otherwise modified unless done in writing signed by the party against which the enforcement of the change, waiver or other modification is sought. This Assignment of Rents and Security Agreement shall in all respects be governed by and construed in accordance with the laws of the state of New York.

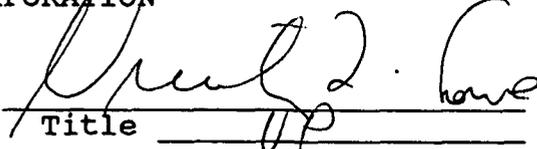
IN WITNESS WHEREOF, the parties have executed the foregoing agreement as of the day and year first above written.

BRAE TRANSPORTATION GROUP CORPORATION,  
Lessee

By   
Title ASSISTANT VICE PRESIDENT

Address: 160 Spear Street  
San Francisco, California 94105

GENERAL ELECTRIC RAILCAR SERVICES  
CORPORATION

By   
Title \_\_\_\_\_

Address: 33 West Monroe Street  
Chicago, Illinois 60603

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

On this 29 day of December, 1988, before me personally appeared LEANN LLOYD, to me personally known, who being by me duly sworn, says that he is the ASSISTANT VICE PRESIDENT of BRAE TRANSPORTATION GROUP CORPORATION and that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

*Suzanne Guido*  
NOTARY PUBLIC in and for the State of  
California residing at San Francisco

