

JUN 30 1981 - 10 20 AM

INTERSTATE COMMERCE COMMISSION

LETTER OF TRANSMITTAL

1-181A091

No.

Date JUN 30 1981

Fee \$ 50.00

ICC Washington, D. C.

Secretary of the Interstate
Commerce Commission
Constitution and 12th Street, N.W.
Washington, D.C. 20423

Dear Sir:

Pursuant to Part 1116 of the regulations of the Interstate Commerce Commission, 49 CFR Part 1116, I hereby request that you record under 49 U.S.C. §11303 that certain Equipment Lease dated as of June 30, 1981 between Portec Lease Corp. and BRAE Corporation. The original and one counterpart of said Lease are enclosed herewith for filing purposes.

Lessee

BRAE Corporation
Four Embarcadero Center
Suite 3100
San Francisco, California 94111

Lessor

Portec Lease Corp.
300 Windsor Drive
Oak Brook, Illinois 60521

The equipment covered by the aforesaid Lease is 28 covered hopper cars. The A.A.R. mechanical designation of the equipment is "LO" and the car numbers are BRAX 260375 to BRAX 260390 (both inclusive), BRAX 260392, BRAX 260397, BRAX 260414 to BRAX 260419 (both inclusive), and BRAX 260421 to BRAX 260424 (both inclusive).

The original and all extra copies of the enclosed documents should be returned to Mr. Gearold Knowles of Schif Hardin & Waite, 1101 Connecticut Avenue, N.W., Washington, D.C. 20036.

RECEIVED
JUN 30 10 14 AM '81
I.C.C.
OPERATION BR.

Counterpart - James P. Cullen

A \$50.00 check, payable to the Interstate
Commerce Commission, also is enclosed to cover the required
recordation fee.

I am an officer of Portec Lease Corp. and have
knowledge of the matters set forth herein.

Very truly yours,

PORTEC LEASE CORP.

By


VICE PRESIDENT

Dated: June 19, 1981

RECORDATION NO. 12108

JUN 30 1981 - 10 20 AM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of June 30, 1981

BETWEEN

PORTEC LEASE CORP.

LESSOR

AND

BRAE CORPORATION

LESSEE

(28 100-Ton Covered Hopper Cars)

[Filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 on June __, 1981, at _____.m., Recordation No. _____]

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ATTACHMENTS TO EQUIPMENT LEASE:

Schedule A - Description of Items of Equipment

Schedule B - Certificate of Acceptance Under Equipment Lease

Schedule C - Schedule of Casualty Values

Schedule D - Manufacturer's Warranty Agreement

EQUIPMENT LEASE

THIS EQUIPMENT LEASE ("this Lease" or "Equipment Lease") dated as of June 30, 1981, between PORTEC LEASE CORP. a Delaware corporation (the "Lessor"), and BRAE CORPORATION, a Delaware corporation (the "Lessee");

R E C I T A L S:

A. Pursuant to Purchase Order No. 112 placed with PORTEC, Inc. ("Manufacturer") by Lessor in anticipation of and reliance upon this Lease, and accepted by Manufacturer, Manufacturer has agreed to manufacture, sell and deliver to Lessor the units of railroad equipment described in Schedule A hereto (collectively the "Equipment" and individually an "Item" or "Item of Equipment"), such purchase order, as so accepted and as the same may be hereafter amended, modified or supplemented, being herein sometimes called the "Purchase Order"; and

B. Lessee desires to lease such number of Items of Equipment, subject to delivery and acceptance thereof as provided in this Lease, at the rentals and upon the terms and conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by Lessee, Lessor hereby leases the Items to Lessee upon the following terms and conditions:

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon execution and delivery of the Certificate of Acceptance (as hereinafter defined) for an Item of Equipment, the Lessor shall lease and let such Item of Equipment to the Lessee for the rental and on and subject to the terms and conditions herein set forth.

1.2. Delivery and Acceptance of Items. The Lessor shall authorize one or more employees of the Lessee, designated by the Lessee, as the authorized representative or representatives of the Lessor to accept delivery of the Items of Equipment pursuant to the Purchase Order. The Lessor will cause each Item of Equipment to be tendered to such authorized representative or representatives at the place of delivery set forth in Schedule A hereto. Upon such tender the Lessee will cause such authorized representative or representatives to inspect each such Item of Equipment, and, if such Item of Equipment is found to be in good order, to accept delivery of such Item of Equipment on behalf of the Lessor and to execute and deliver to the Lessor and the Manufacturer a Certificate of Acceptance in the form attached hereto as Schedule B (the "Certificate of Acceptance")

with respect to such Item of Equipment. Such acceptance of delivery by such authorized representative or representatives on behalf of the Lessor shall, without further act, irrevocably constitute acceptance by the Lessee of such Item of Equipment for all purposes of this Lease. The Lessee shall remain responsible for and shall be liable to the Lessor for any Item accepted by such inspector which is not actually in good order and in conformance with Section 1.3 hereof and the other requirements of this Lease relating to the condition or use of such Item.

1.3. Lessee's Satisfaction with Equipment; Conformance with Specifications and Requirements. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards required or recommended by the Association of American Railroads applicable to new railroad equipment qualified for interchange of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect.

SECTION 2. RENTALS AND PAYMENTS DATES.

2.1. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Interim Rental and Fixed Rental (as hereinafter defined) and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be

terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Items of Equipment except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final, and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

2.2. Rentals for Equipment. With respect to each Item of Equipment subject to this Lease, the Lessee agrees to pay the Lessor 214 consecutive monthly payments payable on the first day of each month, commencing on September 1, 1981 (the "Lease Commencement Date"), to and including June 1, 1999. The first 58 monthly rental payments shall each be in an amount equal to \$375.00 per Item and the last 156 monthly rental payments shall each be in an amount equal to \$427.00 per Item. If any of the rental payment dates is not a business day, the rental payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Illinois, California, or New York are authorized or required to close.

2.3. Place of Rent Payment. Each installment of rental shall be paid to the Lessor by check for the account of the Lessor delivered to the address thereof provided for in Section 21.1 hereof; provided that in the event either the Lessor shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by check or wire transfer (at the assignee's option) to the place designated in such notice or as otherwise designated from time to time in writing by such assignee; and provided further that in the event such notice shall direct the Lessee to divide such installment into not more than two portions and to pay each portion by wire transfer separately to not more than two parties, the Lessee agrees to do so.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate as to such Item of Equipment on June 30, 1999.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment.

(a) The Lessee will cause each Item of Equipment to be kept numbered with the road mark and identifying number of the Permitted Sublessee (as defined in Section 17.2 hereof) set forth in Schedule A hereto and will keep and maintain or cause to be kept or maintained, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height, the words as follows:

**"Owned by a Lessor and Subject to a Security Interest
Recorded with the I.C.C.",**

with appropriate changes thereof and additions thereto as from time to time may be required in law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place or permit any such Item of Equipment to be placed in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Item of Equipment unless (i) a statement of new number or numbers to be substituted therefor shall have been delivered to the Lessor and any assignee under Section 16 hereof by the Lessee and duly filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited, and (ii) the Lessee shall have furnished the Lessor and any assignee under Section 16 hereof evidence satisfactory to the Lessor and any such assignee to the effect that such statement has been so filed, recorded and deposited; such filing, recordation and deposit will protect the Lessor's and such assignee's interests in such Items; and no filing, recording, deposit or giving of notice with or to any other federal, state or local government or agency thereof is necessary to protect the interests of the Lessor and any assignee under Section 16 hereof in such Items.

(b) Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee or a Permitted Sublessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates or a Permitted Sublessee on railroad equipment used by such party of the same or a similar type for convenience of identification.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, THE TITLE THERETO, OR THE LESSOR'S INTEREST THEREIN, THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF (except as provided in Section 17.2 hereof), THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have against the Manufacturer under the provisions of the Manufacturer's Warranty Agreement, a copy of which is attached hereto as Schedule D; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. The Lessor agrees to keep the Equipment free of liens arising through acts of the Lessor unrelated to this transaction.

SECTION 6. LESSEE'S INDEMNITY.

(a) The Lessee shall protect, indemnify and hold the Lessor and any assignee under Section 16 hereof, and their respective successors, assigns, agents and servants (hereinafter referred to as "Indemnified Persons") as third party beneficiaries hereof, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against

any Indemnified Person (including without limitation attorneys' fees and expenses) in any way relating to or arising or alleged to arise out of this Lease or the Items of Equipment, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, non-delivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Item of Equipment; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (v) any injury to or the death of any person or any damage to or loss of property on or near the Items of Equipment or in any manner growing out of or concerned with or alleged to grow out of or be connected with, the ownership, use, leasing, replacement, adaptation or maintenance of the Items or of any other Equipment in connection with the Items (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; or (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Items or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof.

(b) All payments under this Section 6 shall be made directly to the Indemnified Person. The Lessee shall be obligated under this Section 6, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 6 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will, unless the Lessee elects to satisfy such claim, at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 6, the Lessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of their receipt thereof under the laws of the United States or of any political subdivision thereof, shall be equal to the amount of such payment. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this Section 6 by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity

has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this Section 6 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

(c) The indemnities contained in this Section 6 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this Section 6 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Lessor therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The indemnity set forth in this Section 6 shall apply without regard to any negligence on the part of the Lessor or any assignee under Section 16 hereof; provided, however, that nothing contained in this Section shall constitute a waiver of any claim for negligence which the Lessee may assert against the Lessor. It is understood that the indemnities and assumptions of liability set forth in this Section 6 do not guarantee a residual value on the Equipment.

SECTION 7. RULES, LAWS AND REGULATIONS; ALTERATIONS

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitations, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) with respect to the use, operation and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements or modifications at its own expense and title thereto shall be immediately vested in the Lessor. The Lessee agrees that, within 30 days after the close of any calendar quarter in which the Lessee had made any alteration, replacement, addition or modification to any Item of Equipment pursuant to this Section 7 (the "Alterations"), the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Item of Equipment and the date or dates when made.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and

tear excepted, qualified for use in interchange in accordance with the Interchange Rules. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment without the prior written consent of the Lessor and any assignee pursuant to Section 16 hereof, which consent shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien, charge, security interest or other encumbrance upon or against any Item of Equipment; but this Section 9 shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, provided that such contest will not materially endanger the rights or interests of the Lessor or of any assignee under Section 16 hereof and the Lessee, if so requested, shall furnish the Lessor and any such assignee with an opinion of counsel to such effect. If the Lessee does not forthwith pay and discharge, or cause to be paid and discharged, or make adequate provisions for the satisfaction or discharge of, any such debt, tax, charge, assessment, obligation or claim as required by this Section 9, the Lessor or any assignee under Section 16 hereof may, but shall not be obligated to, pay and discharge the same and any amount so paid shall be secured by and under this Lease until reimbursed by the Lessee. The Lessee's obligations under this Section 9 shall survive the termination of this Lease.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. The Lessee will, promptly after the execution and delivery of this Lease and any security agreement, and each supplement or amendment hereto or thereto, respectively, cause the same to be duly filed, recorded or deposited with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303 and in such other places within the

United States as the Lessor or any assignee under Section 16 hereof shall request, and the Lessee will furnish the Lessor and such assignee with proof of any such filing. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or requested by the Lessor or any assignee under Section 16 hereof, for the purpose of protecting the Lessor's title to, or such assignee's security interest in, or the Lessor's leasehold estate in, any Item of Equipment to the reasonable satisfaction of the Lessor or such assignee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor and any such assignee proof of such filings. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and rerecording or depositing and redepositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. (a) All payments to be made by the Lessee hereunder will be free of expense to the Lessor and any assignee thereof pursuant to Section 16 hereof (the "Indemnitees") of collection or other charges and will be free of expense to the Indemnitees with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax [and, to the extent that any respective Indemnatee receives credit therefor against its United States Federal income tax liability, any foreign income tax of such Indemnatee] payable by any respective Indemnatee in consequence of the receipt of payments provided herein and other than the aggregate of all net income or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which such Indemnatee has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon any Indemnatee solely by reason of its interest with respect thereto and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the interest of any Indemnatee therein or result in a lien upon any such Item of Equipment. The Lessee shall have the right to contest the validity of any Imposition upon giving the Indemnitees 20 days' notice of its intention to contest the same, provided that, in the reasonable opinion of the Indemnities, such contest does not adversely affect the interest of any Indemnatee hereunder. The Lessee agrees to prosecute any such contest diligently and by appropriate legal proceedings which will prevent the

enforcement of the matter under contest. If any Impositions shall have been charged or levied against any Indemnatee directly and paid by such Indemnatee after such Indemnatee shall have given written notice thereof to the Lessee, the Lessee shall reimburse such Indemnatee within ten business days after such notice. Prior to making such payment, such Indemnatee shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest such Impositions, at its sole expense, in accordance with the terms of this Section.

(b) In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either prepare and file such reports in such manner as to show as required the interests of each Indemnatee in such Items of Equipment or, if it shall not be permitted to file the same, it will notify each Indemnatee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnatee and deliver the same to each Indemnatee within a reasonable period prior to the date the same is to be filed.

(c) In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration or termination of this Lease for any reason whatsoever, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1 Insurance. Upon the delivery of any Item and at all times during the term hereof and during any storage and return period hereunder, the Lessee will promptly effect and maintain or cause to be effected and maintained with financially sound and reputable companies, insurance policies (i) insuring each such Item against loss by fire, explosion, theft and such other casualties as are usually insured against by companies engaged in the same or a similar business and with coverage in an amount at least equal to the replacement value of each such Item (but such coverage for all railroad rolling stock owned or leased by the Lessee may be limited to \$5,000,000 for each occurrence and the policies relating thereto may contain provisions relating to deductibles which are comparable to those contained in policies carried by other companies engaged in the same or a similar business) and (ii) insuring the Lessee, the Lessor, and any assignee under Section 16 hereof against liability for personal injury and property damage caused by or relating to such railroad rolling stock or their use with coverage in the amount of at least \$10,000,000, all such insurance policies to be in such form and to have such coverage as shall be satisfactory to the Lessor, with losses payable to the Lessee, the Lessor, and any assignee under Section 16 hereof as their respective interests may appear, and all such policies to provide that the same shall not be cancelled except on not less than 30 days' prior written notice to the Lessor and any assignee under

Section 16 hereof; and the Lessee will from time to time furnish to the Lessor and any assignee under Section 16 hereof such information concerning the insurance maintained pursuant to this Section (including, without limitation, copies of policies) as it may reasonably request, and (not less often than annually) an officer's certificate detailing such coverage and stating that the same complies with this Section. The Lessee further agrees that, immediately upon obtaining from any insurer providing coverage required by this Section notice that any policy affording such coverage is to be or has been cancelled, the Lessee will furnish to the Lessor and any assignee under Section 16 hereof an officer's certificate annexing a copy of such notice and stating the action which the Lessee proposes to take with respect thereto.

11.2. Payment for Casualty Occurrences. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, irreparably damaged, condemned, seized or permanently rendered unfit for use from any cause whatsoever during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or Section 15 hereof, or title or use thereof shall be requisitioned by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term of this Lease (such occurrences being hereinafter referred to as "Casualty Occurrences"), the Lessee shall promptly and fully notify or cause to be notified (after the Lessee has knowledge of such Casualty Occurrence) the Lessor and any assignee under Section 16 hereof with respect thereto. On the rental payment date next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Lessor a sum equal to the Casualty Value of such Item as of such payment date. Upon the making of such payment by or on behalf of the Lessee in respect of any Item, the rental for such Item shall cease to accrue as of the date of such payment, the term of this Lease as to such Item shall terminate and (except in the case of the loss, theft or complete destruction of such Item) the Lessor shall be entitled to recover possession of such Item. If the date upon which the making or causing to be made of such payment by the Lessee in respect of any Item as required as aforesaid shall be after the term of this Lease in respect of such Item has expired, no rental for such Item shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Item, shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the prime rate of interest which Continental Illinois National Bank and Trust Company of Chicago charges on the date of such payment for 90 day unsecured loans to large corporate borrowers of the highest credit standing.

11.3. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid (and not the date of the Casualty Occurrence) in accordance with the Schedule of Casualty Values attached hereto as Schedule C.

11.4. Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence not involving a requisition of title as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, the Lessee may, so long as no Event of Default shall have occurred and be continuing hereunder, retain all amounts arising from such disposition plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence plus any requisition or condemnation or awards up to the Casualty Value attributable thereto and actually paid by the Lessee as herein provided and shall remit the excess, if any, to the Lessor. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.5. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.6. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking, but not beyond the expiration of the term of this Lease or any extension thereof. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession, provided no Event of Default shall have occurred and be continuing. If at the end of the then current term of this Lease any Item of Equipment is then held by any governmental authority under the power of eminent domain or otherwise and this Lease shall not then be renewed pursuant to Section 18 hereof, from and after such date the Lessor shall be entitled to receive and retain all sums payable by such governmental authority as compensation for requisition or taking of possession.

SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before the first April 1 which occurs more than four months following the date of this Lease and annually thereafter, the Lessee will furnish to the Lessor and any assignee thereof pursuant to Section 16 hereof an officer's certificate, as of the preceding December 31 (i) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement) and specifying the dates of such Casualty Occurrences, and such other information regarding the condition or repair of the Equipment as the Lessor and any such assignee may request, and (ii) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, any assignee thereof pursuant to Section 16 hereof each shall have the right, at their respective sole cost and expense, by their respective authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, all at such reasonable times and as often as said parties may reasonably request.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM

(a) Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, deliver possession of such Item of Equipment to the Lessor upon such storage tracks within the continental United States as the Lessor may designate, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 120 days from the date at which at least 90% of such Items are first placed in storage pursuant to this Section 13, and transport the same at any time within such 120-day period to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee, and in the event any Item of Equipment shall suffer a Casualty Occurrence during any such period of movement and storage the Lessee shall pay the Lessor the Casualty Value therefor. During any such period of movement and storage the Lessee will continue to maintain the insurance coverage required pursuant to Section 11.1 hereof. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

(b) Each Item of Equipment returned to the Lessor pursuant to this Section 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and qualified for use in interchange, (ii) have attached or affixed thereto any part, addition or improvement title to which is vested in the Lessor pursuant to Section 7 or Section 8 hereof and have removed therefrom, at the expense of the Lessee, any readily removable addition or improvement title to which is vested in the Lessee pursuant to Section 8 hereof, and (iii) meet the applicable standards then in effect for such Item of Equipment under all governmental laws, regulations, requirements and rules (including, without limitation, rules of the United States Department of Transportation, the Interstate Commerce Commission and interchange rules or supplements thereto of the Association of American Railroads).

(c) Until the earlier of (i) the date on which an Item of Equipment is assembled, delivered and stored as hereinabove provided or (ii) the 60th day after the date of the expiration of the term of this Lease, the Lessee shall pay the Lessor an amount per day equal to \$12.50 per Item. If any such Item of Equipment is not assembled, delivered and stored as hereinabove provided within 60 days after the date of the expiration of the term of this Lease, the Lessee shall, in addition, pay the Lessor the greater of an amount equal to (i) \$18.75 per Item from said 60th day to the date of its assembly, delivery or storage as hereinabove provided or (ii) all rental, per diem or other similar charges for the Equipment received therefor until such date of assembly, delivery and storage.

(d) The assembling, delivery, storage and transporting of the Equipment as provided in Section 13 are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for five days;

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof;

(c) default shall be made in the observance or performance of any of the covenants, conditions and agreements on the part of the Lessee contained in Section 11.1 hereof and such default shall continue for two days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

(d) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 20 days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

(e) any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor or any assignee under Section 16 hereof pursuant to or in connection with this Lease is untrue in any material respect as of the date of issuance or making thereof;

(f) a petition under any provision of Title 11 of the United States Code shall be filed by or against the lessee and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings or otherwise given the same status as obligations incurred by such trustee or trustees within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier, or by the trustee in such proceedings in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision as the same may be hereafter amended;

(g) any other proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings or otherwise given the same status as obligations incurred by such trustee or trustees or

receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings or otherwise given the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(h) the Lessee (i) shall be in default under any material obligation for the payment of borrowed money in excess of \$5,000,000 or for the payment of rent under any material lease agreement covering real or personal property, (ii) the applicable grace period with respect thereto shall have expired, and (iii) any such indebtedness or rentals shall be accelerated or any other remedy available upon a default under any such instrument shall be asserted. A "material lease" shall mean any lease (other than this Lease) entered into by the Lessee which has an unexpired term of three years or more (whether or not reflected in the balance sheet of the Lessee) and which provides for the payment of rental in any year in an aggregate amount exceeding \$500,000.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof, including attorneys' fees; or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor or such assignee, as the case may be, may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever, but the Lessor, or such assignee, as the case may be, shall nevertheless have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a

fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor or such assignee, as the case may be, in its sole discretion, shall specify: a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental Value (as hereinafter defined) of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor or such assignee, as the case may be, reasonably estimates to be obtainable for the use of such Item during such period, such present worth to be computed in each case on a basis of a 15% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rental payment date on or immediately preceding the date of termination over the amount the Lessor or such assignee, as the case may be, reasonably estimates to be the Fair Market Value (as hereinafter defined) thereof at such time; provided, however, that in the event the Lessor or such assignee, as the case may be, shall have sold any Item of Equipment, such party, in lieu of collecting any amounts payable thereto by the Lessee pursuant to the preceding clauses and with respect thereto may, if it shall so elect, demand that the Lessee pay such party and the Lessee shall pay to such party, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rental payment date on or immediately preceding the date of termination over the net proceeds of such sale, and any damages and expenses, other than for a failure to pay rental, in addition thereto, including attorneys' fees, which the Lessor or such assignee, as the case may be, shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; or

(c) direct sublessees (including, without limitation, the Permitted Sublessee) to pay all rental and

other amounts and render all performances due to Lessee under any subleases and otherwise attorn to the Lessor and its assigns hereunder, which direction shall be joined by the Lessee.

For purposes of Section 14.2 above, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined in the manner provided for appraisal arrangements specified in Section 18 hereof; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor or any assignee pursuant to Section 16 hereof, as the case may be, shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The 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. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rental payments due hereunder, and agrees to make the rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

14.4. Failure to Exercise Rights. The failure of the Lessor or any assignee pursuant to Section 16 hereof, as the case may be, to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless it is in writing and signed by the Lessor and any such assignee.

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor and any assignee pursuant to Section 16 hereof promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof and indicating the intention or expectation of the Lessee as to the disposition thereof. For the purposes of this Section 14.5 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. (a) If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(i) forthwith place such Equipment upon such storage tracks within the continental United States as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(ii) provide storage at the risk of the Lessee for each such Item of Equipment on such tracks without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor; and

(iii) transport the Equipment to any place of interchange on the lines of railroad within a 250-mile radius of such storage tracks, all as the Lessor may direct in writing.

(b) Each Item of Equipment returned to the Lessor pursuant to this Section 15 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and be qualified for use in interchange, (ii) have attached or affixed thereto any part, addition or improvement title to which is vested in the Lessor pursuant to Section 7 or Section 8 hereof and have removed therefrom, at the expense of the Lessee, any readily removable addition or improvement title to which is vested in the Lessee pursuant to Section 8 hereof, and (iii) meet the applicable standards then in effect for such Item of Equipment under all governmental laws, regulations, requirements and rules (including, without limitation, rules of the United States Department of Transportation, the Interstate Commerce Commission and interchange rules or supplements thereto of the Association of American Railroads).

(c) Until the earlier of (i) the date on which an Item of Equipment is assembled, delivered and stored as hereinabove provided or (ii) the 60th day after the date of the termination of this Lease pursuant to Section 14 hereof, the Lessee shall pay the Lessor an amount per day equal to \$12.50 per Item. If any such Item of Equipment is not assembled, delivered and stored as hereinabove provided within 60 days after the termination of this Lease pursuant to Section 14 hereof, the Lessee shall, in addition, pay the Lessor the greater of an amount equal to (i) \$18.75 per Item from said 60th day to the date of its assembly, delivery or storage as hereinabove provided or (ii) all rental, per diem or other similar charges for the Equipment received therefor until such date of assembly, delivery and storage.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of such assignee. All the rights of the Lessor hereunder (including, but not limited to, the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (ii) said assignee, shall, if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor (except those rights, privileges and remedies relating to amounts payable

only to the Lessor pursuant to Sections 6, 10.2, 11.1 and 21 hereof which shall remain enforceable by the Lessor), but if no Event of Default or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, said assignee and the Lessor may each exercise their respective rights, privileges and remedies stated in this Lease to be provided for their respective benefits, and (iii) all obligations of the Lessor to the Lessee under this Lease shall be enforceable by the Lessee against, and only against, the Lessor. It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest of the Lessee in and to the Equipment.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, and, in the event this Lease has been assigned to an assignee pursuant to Section 16 hereof, such assignee, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment, except as permitted by Section 17.2 hereof. The Lessee shall not, without the prior written consent of the Lessor, and, in the event this Lease has been assigned to an assignee pursuant to Section 16 hereof, such assignee, part with the possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession. (a) So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to and shall have the exclusive use and possession of the Equipment. The Lessee agrees that the Equipment will substantially at all times be used within the continental United States, that in no event will the Lessee assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States and that the Lessee shall at all times remain in compliance with the terms and provisions of this Lease in respect of all of the Items of Equipment wherever located. The Lessee further agrees that at no time during the term hereof will 15% or more of the Items leased hereunder be located outside the continental United States. The Lessee agrees that it will not assign this Lease or any of its rights hereunder or sublease any Item of Equipment except in accordance with the provisions set forth below in this Section 17.2. No such sublease or permitted use shall relieve the Lessee of any of the obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not a surety.

(b) So long as the Lessee shall not be in default under this Lease, (i) the Lessee shall be entitled to sublease the Items of Equipment and notice of such subleases, including the name of the sublessees, shall be given to the Lessor and any assignee under Section 16 hereof, and (ii) each Item of Equipment may, under the terms of this Lease and pursuant to any such subleases, be used upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all of the terms and conditions of this Lease and any subleases; provided, however, that any such sublease and the rights and interests of any sublessee thereunder (i) shall in all events be subject and subordinate to this Lease and the rights and interests of the Lessor and its successors and assigns hereunder if the rentals payable under any such sublease are less than the rentals owed hereunder, (ii) shall be for a term expiring not later than the end of the then current term of this Lease, and (iii) the sublease shall not contain any right to purchase any Item of Equipment.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any solvent corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the assets of the Lessee, provided that such assignee, successor or transferee shall have duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Lease and that such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

SECTION 18. RIGHT OF FIRST REFUSAL.

(a) The Lessor shall make a good faith determination of whether it will retain, sell or relet the Items of Equipment at the expiration of the term of this Lease and, if it determines to sell or relet any such Items, it shall, not less than 180 days prior to such expiration, give the Lessee written notice of such determination. Provided that no Event of Default or other event which after notice a lapse of time or both would become a Event of Default shall have occurred and be continuing, the Lessee shall then have the right, in accordance with the Lessor's election to sell or relet such Items, to purchase such Items at their Fair Market Value or to relet such Items, on the same terms and conditions as are contained in this Lease, at their Fair Rental Value. The Lessee shall, not less than 120 days prior to the expiration of this Lease, give the Lessor written notice of its intention to so purchase or relet such Items. Fair Market Value and Fair Rental Value shall have the respective meanings set forth below. In the event that Lessee elects not to purchase or lease the Items at the Fair Market Value or Fair Rental Value determined as provided below, then the expenses and fees of the Appraiser shall be borne solely by Lessee.

(b) For purposes of this Section 18 and Section 14.2 of this Lease, the Fair Rental Value for any Item of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of such Item of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or if such appraisers cannot agree on the amount of such value, Appraiser shall mean a third independent appraiser chosen by the two appraisers chosen by the parties hereto. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The Fair Market Value for any Item of Equipment shall be determined in a similar manner using the same procedures with appropriate adjustments for sale rather than rental; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item. The expenses and fees of the Appraiser shall be borne by the Lessee for the purposes of Section 14.2 and shall be borne equally by the Lessor and the Lessee for the purposes of Section 18 of the Lease, except as otherwise provided above.

SECTION 19. INTEREST ON OVERDUE RENTALS.

Anything to the contrary herein contained notwithstanding, any nonpayment of rent due hereunder or amounts paid by the Lessor or expended by the Lessor on behalf of the Lessee shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 18% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. INDEMNITY FOR INCOME TAX BENEFITS; INDEMNITY FOR IMPROVEMENTS.

20.1. Intended Tax Benefits. It is the intent of the Lessor that this Lease will be recognized as a lease for all federal, state, city and local income taxes or franchise taxes imposed on or measured by net income, and that this Lease does not convey to the Lessee any right, title or interest in the Items except as lessee and that for United States income tax purposes (and to the extent applicable, for state and local tax purposes), the Lessor shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date

hereof (the "Code"), to an owner of property including, without limitation, (i) the maximum depreciation deduction with respect to the items authorized under Section 167 of the Code utilizing the lower limit for Asset Guideline Class No. 00.25 in accordance with Section 167(m) of the Code based on the aggregate purchase price of the Items, employing the double declining balance method of depreciation, switching to the sum-of-the-years-digits method without the consent of the Commissioner of Internal Revenue when most beneficial to the Lessor, and taking into account an estimated gross salvage value of 20% of the purchase price of the Items, which will be reduced by 10% of such purchase price as provided in Section 167(f) of the Code (such deduction is hereinafter referred to as the "ADR Deduction"); (ii) deductions with respect to interest payable on any debt issued by the Lessor pursuant to Section 163 of the Code (such deduction is hereinafter referred to as the "Interest Deduction"); and (iii) the full 10% investment credit with respect to the aggregate purchase price of the Items pursuant to Section 38 and related sections of the Code (such credit is hereinafter referred to as the "Investment Credit").

20.2. Actions of Lessee. The Lessee agrees that neither the Lessee nor any corporation controlled by the Lessee, in control of the Lessee, or under common control with the Lessee, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the tax benefits described in Section 20.1 hereof or which would increase the amount of rentals required to be taken into income by the Lessor over the amount specified to be payable under this Lease on the dates due hereunder, and that each will file such returns, take such actions and execute such documents as may be necessary or appropriate to facilitate the intent hereof. The Lessee agrees to keep and make available for inspection and copying such records as it possesses in the ordinary course of its business as will enable the Lessor to determine the extent to which it is entitled to the benefit of the ADR Deduction, the Interest Deduction, and Investment Credit with respect to the Items.

20.3. Representations and Warranties of Lessee. The Lessee represents and warrants that (i) the Lessee will not by act or omission claim ownership of the Items for Federal income tax purposes; (ii) the Lessee will not use or fail to use any Item in a manner which will cause such Item to cease to be "section 38 property" within the meaning of section 48(a) of the Code; (iii) the Lessee will maintain sufficient records to verify such use; (iv) upon request of the Lessor, the Lessee will provide written reports establishing such use; (v) the Lessee will not take any act impairing the right of the Lessor to the Interest Deduction; and (vi) the Lessee will not claim that it is the owner of the Items at any time prior to the exercise of any right to purchase the Items pursuant to Section 18 of this Lease.

20.4. Indemnification. If a violation of Section 20.2 or 20.3 occurs, and therefore the Lessor shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of or shall be required to recapture all or any portion of the ADR Deduction, the Investment Credit or the Interest Deduction with respect to all or part of any Item (any such

event being hereinafter called a "Loss"), then the rentals for such Item set forth in Section 2 of this Lease shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact be increased to such amount or amounts as (after deduction of all taxes required to be paid by the Lessor or the payment of such amounts under the laws of the United States or any political subdivision thereof or any foreign taxing authority, in each case calculated on the assumption that such tax is payable at the Lessor's highest then applicable marginal tax rate), when taken together with the rental installments due on such dates which are to be distributed to the Lessor, shall, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax yield on and rate of recovery of investment and the annual net cash flows (computed on the assumptions utilized by the Lessor in evaluating this Lease) to equal the net after-tax yield on and rate of recovery of investment and annual net cash flows that would have been realized by the Lessor if such Loss had not occurred and the Lessee shall in addition forthwith pay to the Lessor as additional rental an amount which (after deduction of any additional taxes imposed with respect to such payment calculated on the assumption that such taxes are payable at the then highest applicable marginal tax rate) equals the amount of any interest and penalties which may be imposed in connection with such Loss. Upon reasonable request, Lessor will permit, at Lessee's expense, an auditor of national reputation (selected by the Lessee) to verify Lessor's tax calculations with respect thereto.

20.5. Alterations.

(a) If the Lessor reasonably determines on the basis of the advice of its independent tax counsel that it is necessary to include in its gross income for Federal, state or local income tax purposes the value of any addition, replacement, modification or improvement to the Equipment made by the Lessee, under and pursuant to the terms of this Lease or otherwise made by the Lessee (all such additions, replacements, modifications or improvements are hereinafter referred to as "Alterations"), the Lessee shall pay as additional rental on each of the dates provided in this Lease for payments of the installments of rental commencing with the first such date following the date on which Lessee is required to furnish written notice of such inclusion to the Lessor pursuant to Section 20.5(b), such additional amounts which (after deduction of all taxes required to be paid by the Lessor on the receipt thereof under the laws of the United States or any political subdivision thereof at the highest marginal corporate rates), when taken together with the amount of any rental installments due on such dates under the Lease, will, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax yield on and rate of recovery of investment and annual net cash flows (computed on the same assumptions as utilized by the Lessor in evaluating this Lease) to equal the net after-tax yield on and rate of recovery of investment and annual net cash flows that would have been realized if the value of any such Alteration had not been includible in the Lessor's gross income (which payment shall also give effect to any Federal, state or local income tax required to be paid by the Lessor as a result of such payment). Upon reasonable request, Lessor will permit, at Lessee's

expense, an auditor of national reputation (selected by the Lessee) to verify Lessor's tax calculations with respect thereto.

20.5 (b) The Lessee agrees that, within 30 days after the close of any calendar year (or in the event the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein which is other than December 31, within 30 days after such specified date), in which the Lessee has made Alterations which are includible in the gross income of the Lessor for income tax purposes under this Section 21, the Lessee shall give written notice thereof to the Lessor describing such Alterations in detail and specifying the value thereof with respect to the Equipment.

20.6. Adjustment of Casualty Values. In the event payments are required of the Lessee pursuant to this Section 20, the Casualty Values set forth in Section 11 and Schedule C of this Lease and the damages and amounts required pursuant to Section 14.2(b) of this Lease shall be adjusted accordingly. Upon reasonable request Lessor will permit, at Lessee's expense, an auditor of national reputation (selected by the Lessee) to verify Lessor's calculations with respect thereto.

20.7. Survival; Lessor; Payment. The Lessee's obligations to make any payments pursuant to this Section 20 shall survive the expiration or other termination of this Lease. In the event that this Lease is terminated with respect to any Item prior to the time the Lessee is obligated to make payments to the Lessor as set forth in this Section 20, then the Lessee shall pay to the Lessor, in lieu of such payments, on or before 30 days after the liability of the Lessee in respect of such termination hereunder shall become fixed, such lump sum (calculated in the same manner as set forth for other payments required pursuant to this Section 20.4), as shall be necessary in the reasonable opinion of the Lessor to maintain Lessor's net after-tax yield on and rate of recovery of investment and the annual net cash flows (computed on the assumptions utilized by the Lessor in evaluating this Lease) in respect of such Item hereunder at the same level that would have been available if such Loss had not occurred. In determining the extent to which the Lessor receives credit for any foreign tax against its Federal income tax liability, it shall be assumed that credit is received for all other foreign taxes claimed as credits for the taxable year in question before credit is received for any foreign taxes indemnified hereunder which are claimed as credits for such year. Upon reasonable request, Lessor will permit, at Lessee's expense, an auditor of national reputation to verify Lessor's tax calculations with respect thereto. For purposes of this Section 20, the term "Lessor" shall include any affiliated group of which the Lessor is a member if consolidated, joint, or combined returns are filed for such affiliated group for Federal, state or local income tax purposes. All payments required to be made by the Lessee pursuant to this Section 20 shall be made in immediately available funds to such bank in the continental United States for the account of the Lessor as it may from time to time have directed the Lessee in writing.

SECTION 21. MISCELLANEOUS.

21.1. Notices. Any notice required or permitted to be given pursuant hereto shall be deemed delivered three business days after deposit thereof at any United States main or branch post office, certified or registered mail, postage prepaid, addressed as follows:

If to the Lessor:

Portec Lease Corp.
300 Windsor Drive
Oak Brook, Illinois 60521
Attention: President

If to the Lessee:

Brae Corporation
Four Embarcadero Center, Suite 3100
San Francisco, California 94111

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

21.2. Right of Lessor to Perform. If the Lessee fails to perform or comply with any of its covenants herein contained, either the Lessor or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder may, but shall not be obligated to, make advances or perform the same and take all such action as may be necessary to obtain such performance.

21.3. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

21.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

21.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

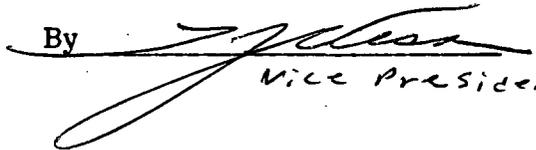
21.6. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be as to such jurisdiction ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

21.7. Survival. All warranties, representations and covenants made by the Lessee herein or in any certificate or other instrument delivered by the Lessee or on behalf of the Lessee under this Lease shall be considered to have been relied upon by the Lessor and any assignee thereof pursuant to Section 16 hereof and shall survive the consummation of the transactions contemplated hereby regardless of any investigation made by any such party or on behalf of any such party. All statements in any such certificate or other instrument shall constitute warranties and representations of the Lessee.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

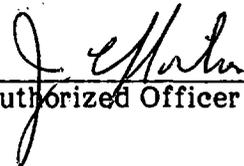
PORTEC LEASE CORP.

By


Vice President

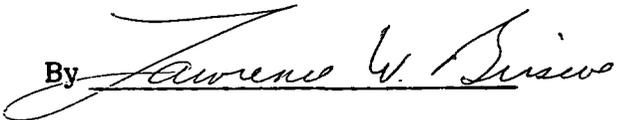
[CORPORATE SEAL]

ATTEST:


Authorized Officer Secretary

BRAE CORPORATION

By



[CORPORATE SEAL]

ATTEST:


Authorized Officer

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

On this 29th day of June, 1981, before me personally appeared T. J. Vesa, to me personally known, who being by me duly sworn, says that he is an authorized officer of PORTEC LEASE CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed 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.

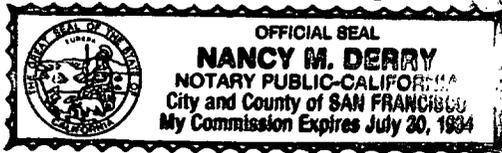
Thomas Marino
Notary Public

[NOTARIAL SEAL]

My commission expires: September 19, 1984

STATE OF CALIFORNIA)
) SS
COUNTY OF SAN FRANCISCO)

On this 26th day of June, 1981, before me personally appeared Lawrence Bracco, to me personally known, who being by me duly sworn, says that he is an authorized officer of BRAE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed 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.



Nancy M. Derry
Notary Public

[NOTARIAL SEAL]

My commission expires: July 30, 1984

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer of Equipment:	PORTEC, Inc.
Description and Mark and Number of Items of Equipment	28 100-ton Covered Hopper Cars Marked and Numbered BRAX 260375 to BRAX 260390 (both inclusive), BRAX 260392, BRAX 260397, BRAX 260414 to BRAX 260419 (both inclusive), and BRAX 260421 to BRAX 260424 (both inclusive)
Specifications:	#H-100-780703B
Purchase Price of Equipment:	\$41,100 per Item
Place of Delivery:	Augusta, Georgia
Freight:	Freight charges for the account of the Lessee

SCHEDULE A
(to Equipment Lease)

**CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE**

**TO: Portec Lease Corp.
300 Windsor Drive
Oak Brook, Illinois 60521
(the "Lessor")**

I, a duly appointed and authorized representative of BRAE Corporation (the "Lessee") under the Equipment Lease dated as of June 30, 1981 between the Lessor and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Lessor under said Equipment Lease of the following Items of Equipment:

TYPE OF EQUIPMENT: 100-ton Covered Hopper Cars

MANUFACTURER: PORTEC, Inc.

PLACE ACCEPTED: Augusta, Georgia

DATE ACCEPTED:

NUMBER OF ITEMS:

MARKED AND NUMBERED:

I do further certify on behalf of the Lessee that the foregoing Items of Equipment are in good order and condition, and appear to conform to the specifications applicable thereto, that the Lessee has no knowledge of any defect in any of the foregoing Items of Equipment with respect to design, manufacture, condition or in any other respect, and that each Item has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

**"Owned by a Lessor and Subject to a Security
Interest Recorded with the I.C.C."**

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer for any warranties it has made with respect to the Equipment.

Dated: , 1981

**Inspector and Authorized
Representative of the Lessee**

**SCHEDULE B
(to Equipment Lease)**

SCHEDULE OF CASUALTY VALUES

<u>Rent Payment Date</u>	<u>Casualty Value</u>
JUN 81	\$41,501
JUL 81	42,117
AUG 81	42,367
SEP 81	42,287
OCT 81	42,462
NOV 81	42,640
DEC 81	42,704
JAN 82	43,526
FEB 82	43,682
MAR 82	43,834
APR 82	43,773
MAY 82	43,912
JUN 82	43,720
JUL 82	43,839
AUG 82	43,960
SEP 82	43,939
OCT 82	44,053
NOV 82	44,169
DEC 82	44,281
JAN 83	44,823
FEB 83	44,933
MAR 83	45,041
APR 83	45,033
MAY 83	45,134
JUN 83	44,991
JUL 83	45,081
AUG 83	45,172
SEP 83	45,180
OCT 83	45,265
NOV 83	45,351
DEC 83	45,435
JAN 84	45,760
FEB 84	45,841
MAR 84	45,921
APR 84	45,950
MAY 84	46,023
JUN 84	45,924

SCHEDULE C
(to Equipment Lease)

<u>Rent Payment Date</u>	<u>Casualty Value</u>
JUL 84	43,485
AUG 84	43,548
SEP 84	43,544
OCT 84	43,603
NOV 84	43,662
DEC 84	43,718
JAN 85	43,972
FEB 85	44,026
MAR 85	44,078
APR 85	44,095
MAY 85	44,141
JUN 85	44,035
JUL 85	44,072
AUG 85	44,110
SEP 85	44,125
OCT 85	44,157
NOV 85	44,191
DEC 85	44,221
JAN 86	44,338
FEB 86	44,367
MAR 86	44,393
APR 86	44,416
MAY 86	44,437
JUN 86	44,312
JUL 86	41,751
AUG 86	41,710
SEP 86	41,651
OCT 86	41,605
NOV 86	41,558
DEC 86	41,508
JAN 87	41,539
FEB 87	41,486
MAR 87	41,430
APR 87	41,370
MAY 87	41,309
JUN 87	41,159
JUL 87	41,089
AUG 87	41,019
SEP 87	40,946
OCT 87	40,870
NOV 87	40,793
DEC 87	40,714

SCHEDULE C
(to Equipment Lease)

<u>Rent Payment Date</u>	<u>Casualty Value</u>
JAN 88	40,672
FEB 88	40,589
MAR 88	40,503
APR 88	40,415
MAY 88	40,324
JUN 88	40,189
JUL 88	37,555
AUG 88	37,456
SEP 88	37,355
OCT 88	37,251
NOV 88	37,146
DEC 88	37,039
JAN 89	36,979
FEB 89	36,867
MAR 89	36,753
APR 89	36,637
MAY 89	36,519
JUN 89	36,348
JUL 89	36,224
AUG 89	36,099
SEP 89	35,971
OCT 89	35,841
NOV 89	35,710
DEC 89	35,576
JAN 90	35,460
FEB 90	35,322
MAR 90	35,182
APR 90	35,040
MAY 90	34,896
JUN 90	34,730
JUL 90	34,581
AUG 90	34,431
SEP 90	34,279
OCT 90	34,125
NOV 90	33,969
DEC 90	33,810
JAN 91	33,650
FEB 91	33,488
MAR 91	33,324
APR 91	33,158
MAY 91	32,990
JUN 91	32,821

SCHEDULE C
(to Equipment Lease)

<u>Rent Payment Date</u>	<u>Casualty Value</u>
JUL 91	32,651
AUG 91	32,478
SEP 91	32,304
OCT 91	32,128
NOV 91	31,950
DEC 91	31,770
JAN 92	31,558
FEB 92	31,401
MAR 92	31,218
APR 92	31,031
MAY 92	30,843
JUN 92	30,654
JUL 92	30,465
AUG 92	30,272
SEP 92	30,079
OCT 92	29,884
NOV 92	29,687
DEC 92	29,488
JAN 93	29,288
FEB 93	29,086
MAR 93	28,881
APR 93	28,676
MAY 93	28,470
JUN 93	28,265
JUL 93	28,060
AUG 93	27,851
SEP 93	27,642
OCT 93	27,432
NOV 93	27,219
DEC 93	27,006
JAN 94	26,791
FEB 94	26,574
MAR 94	26,354
APR 94	26,135
MAY 94	25,916
JUN 94	25,697
JUL 94	25,480
AUG 94	25,259
SEP 94	25,037
OCT 94	24,815
NOV 94	24,590
DEC 94	24,365

SCHEDULE C
(to Equipment Lease)

Rent Payment Date Casualty Value

JAN 95	24,139
FEB 95	23,909
MAR 95	23,678
APR 95	23,448
MAY 95	23,217
JUN 95	22,988
JUL 95	22,760
AUG 95	22,529
SEP 95	22,297
OCT 95	22,065
NOV 95	21,830
DEC 95	21,594

JAN 96	21,358
FEB 96	21,119
MAR 96	20,877
APR 96	20,637
MAY 96	20,397
JUN 96	20,159
JUL 96	19,923
AUG 96	19,681
SEP 96	19,437
OCT 96	19,192
NOV 96	18,940
DEC 96	18,687

JAN 97	18,433
FEB 97	18,172
MAR 97	17,908
APR 97	17,643
MAY 97	17,377
JUN 97	17,111
JUL 97	16,845
AUG 97	16,573
SEP 97	16,299
OCT 97	16,024
NOV 97	15,742
DEC 97	15,458

JAN 98	15,172
FEB 98	14,879
MAR 98	14,583
APR 98	14,286
MAY 98	13,988
JUN 98	13,689

SCHEDULE C
(to Equipment Lease)

<u>Rent Payment Date</u>	<u>Casualty Value</u>
JUL 98	13,390
AUG 98	13,085
SEP 98	12,777
OCT 98	12,467
NOV 98	12,151
DEC 98	11,832
JAN 99	11,511
FEB 99	11,184
MAR 99	10,851
APR 99	10,519
MAY 99	10,184
JUN 99	10,275

SCHEDULE C
(to Equipment Lease)

MANUFACTURER'S WARRANTY AGREEMENT

THIS AGREEMENT dated as of June 30, 1981 between Portec Lease Corp., a Delaware corporation ("Lessor"), and PORTEC, Inc., a Delaware corporation ("PORTEC"),

WITNESSETH:

WHEREAS, pursuant to Purchase Order Number 112 placed by Lessor with PORTEC and accepted by PORTEC, Lessor has agreed to purchase from PORTEC, and PORTEC has agreed to manufacture and sell to Lessor, certain railroad equipment, consisting of 28 cars ("Units") described as 4,750 cubic feet, 100-ton capacity open-top hopper cars, to be built in accordance with specifications #H-100-780703B (dated December 1, 1980) and to conform to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications; and

WHEREAS, the Lessor and PORTEC desire to establish all of Lessor's warranties of every kind and nature, both express and implied, as to such Units within the confines of this document; and

WHEREAS, Lessor has advised that it intends to lease the Units to BRAE Corporation ("Lessee") under terms authorizing Lessee to enforce said warranties,

NOW, THEREFORE, in consideration of the premises, PORTEC and the Lessor agree that the warranties from PORTEC to Lessor relating to the above described Units of railroad equipment are as follows:

SCHEDULE D
(to Equipment Lease)

ITEM I

PORTEC warrants (i) that each of the above described Units of railroad equipment will be built in accordance with the Specifications above named, (ii) that the design, quality and component parts of each Unit will conform, on the date of completion of the manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of the Units; and that each Unit will be free from defects in material (except as to specialties incorporated therein which were specified to be supplied by Lessee and not manufactured by PORTEC) and workmanship under normal use and service; provided, however, that PORTEC's obligation under this paragraph shall be limited to making good at its plant (or at the option of PORTEC repair facilities operated by Lessor or by a contractor selected by PORTEC and approved by Lessee) any part or parts of any Unit as to which written notice of such defect has been given by Lessor or Lessee to PORTEC within one year after delivery of such Unit and which part or parts are returned within 90 days after such notice to PORTEC or to the aforesaid repair facilities designated by PORTEC in a reply to such notice, provided that PORTEC's examination shall disclose to its reasonable satisfaction such part or parts to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF PORTEC WITH RESPECT TO THE UNITS EXCEPT FOR ITS OBLIGATIONS SPECIFICALLY SET FORTH IN SAID PURCHASE ORDER. PORTEC neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of Units, except as aforesaid. PORTEC SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES OF WHATEVER NATURE.

SCHEDULE D
(to Equipment Lease)

PORTEC agrees that Lessor or Lessee as well as PORTEC may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by PORTEC for incorporation in the Units and not warranted hereunder for the breach of any warranty by the vendors with respect to such specialties. PORTEC, Lessor and Lessee (as a condition of its being a third-party beneficiary hereof) each agree to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If PORTEC determines that it has no interest in any such claim asserted by Lessor or Lessee, PORTEC agrees to assign to Lessor or Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which PORTEC has against such vendor for the breach of warranty or other representation respecting the Units.

PORTEC further agrees that neither the inspection as provided in the aforesaid Purchase Order or in Lessor's lease of the Units to Lessee shall be deemed a waiver or modification by either Lessor or Lessee of any of their rights under this Item I.

It is further understood and agreed that the word "designs" and the word "specialties" as used herein and in Item 2 shall be deemed to include articles, materials, systems, formulae and processes.

ITEM 2

Except in the case of designs, processes or combinations specified by Lessee and not developed or purported to be developed by PORTEC, and articles and materials specified by Lessee and not manufactured by PORTEC, PORTEC agrees to indemnify, protect and hold harmless Lessor and Lessee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and reasonable attorney's fees, in any manner imposed upon or accruing against Lessor or Lessee, because of the use in or about the construction or operation of the Units, or any thereof, of any design, process, combination, article or material

SCHEDULE D (to Equipment Lease)

infringing or claimed to infringe on any patent or other right. Lessee, as a condition to its being a third-party beneficiary hereof, likewise will indemnify, protect and hold harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and reasonable attorney's fees, in any manner imposed upon or accruing against PORTEC because of the use in or about the construction or operation of the Units, or any thereof, of any design, process or combination specified by Lessee and not developed or purported to be developed by PORTEC, or article or material specified by Lessee, which infringes or is claimed to infringe on any patent or other right. PORTEC agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to Lessor and Lessee, every claim, right and cause of action which PORTEC has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by Lessee and used by PORTEC in or about the construction or operation of the Units, or any thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and PORTEC further agrees to execute and deliver to Lessor and Lessee all and every such further assurances as may be reasonably requested by Lessor and Lessee more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Lessee, as a condition to its being a third-party beneficiary hereof, will give notice to PORTEC of any claim known to Lessee on the basis of which liability may be charged against PORTEC hereunder and PORTEC will give notice to Lessee and Lessor of any claim known to PORTEC, on the basis of which liability may be charged against Lessee hereunder.

The parties hereto agree that the above foregoing warranties may be asserted and enforced, from time to time, by Lessee against

SCHEDULE D
(to Equipment Lease)

PORTEC pursuant to a lease relating to the subject Units wherein Lessor is lessor and Lessee is lessee.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals on the date first above written.

(CORPORATE SEAL)

PORTEC, Inc.

By _____
_____ President

ATTEST:

_____ Secretary

(CORPORATE SEAL)

Portec Lease Corp.

By _____
_____ President

ATTEST:

_____ Secretary