

# BRAE CORPORATION

RECORDATION NO. 10630-0 Filed 142b

OCT 15 1980 - 9 52 AM

9-289A012

October 7, 1980

INTERSTATE COMMERCE COMMISSION

No. 1  
OCT 15 1980  
Date.....  
Fee \$10.00  
ICC Washington, D. C.

Ms. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
Room 2215, 12th & Constitution  
Washington, D.C. 20423

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. §11303 are five copies of the following document:

Fourth Amendment, dated as of June 1, 1980, to the Equipment Trust Agreement, dated June 1, 1979, between Morgan Guaranty Trust Company of New York, as Trustee, and BRAE Corporation.

It relates to 600 70-ton XM and XP boxcars marked as follows:

- UO 1500-1549, inclusive
- BMS 00201-00500, inclusive
- CLC 3401-3500, inclusive
- SBVR 2001-2050, inclusive
- AA 5100-5199, inclusive

The names and addresses of the parties to the transaction evidenced by the document described above are as follows:

- Lessor: Brae Corporation  
Suite 1760, Three Embarcadero Center  
San Francisco, California 94111
- Lender: Morgan Guaranty Trust Company of New York  
30 West Broadway  
New York, New York 10015

It is requested that this document be filed and recorded under the names and parties as set forth above. In view of the fact that it relates to the Equipment Trust Agreement, previously assigned recordaton number 10630 (and filed July 16, 1979 at 3:25 p.m.), we request that it be assigned the next available letter designation under that primary number, which we believe to be "0."

I enclose a check or \$10.00 for the required recordaton fee.

RECORDATION SR.  
OCT 15 1980 11:00  
RECORDED

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$10.00 filing fee paid by check drawn on this firm, (3) the enclosed copies of this letter, and (4) four copies of the document, retaining one for your files - - all stamped with your official recordation information.

Very truly yours,

A handwritten signature in cursive script that reads "Alfred C. Dossa".

Alfred C. Dossa, Esq.  
Vice President and  
General Counsel

ACD/nmd  
Enclosures

# **BRAE** CORPORATION

October 9, 1980

Interstate Commerce Commission  
R. 2215, 12th & Constitution  
Washington, D.C. 20423

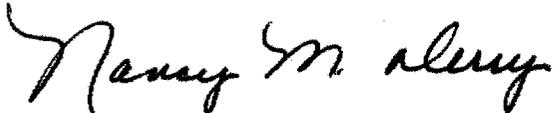
Attention: Mildred Lee

Dear Ms. Lee:

Pursuant to our conversation this date, I enclose herewith a check in the amount of \$10.00 to replace the check which we originally enclosed and has been lost.

Thank you for your assistance in this matter.

Sincerely,



Nancy Derry  
Secretary to  
Alfred C. Dossa  
Vice President &  
General Counsel

/encls

FOURTH AMENDMENT dated as of June 1, 1980 to Equipment Trust Agreement dated as of June 1, 1979, as amended by an Amendment dated as of December 7, 1979, an Amendment Agreement Number Two dated as of December 16, 1979, and a Third Amendment dated as of April 15, 1980, and as supplemented by a Waiver dated as of January 10, 1980 and a Waiver dated as of March 1, 1980 (as so amended and supplemented, the "Equipment Trust Agreement") between MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as trustee (the "Trustee"), and BRAE CORPORATION (the "Company").

RECORDATION NO. 10630-0 F15d 142b

Recitals

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The Company has requested that the ~~Trustee~~ <sup>INTERSTATE COMMERCE COMMISSION</sup> amend the Equipment Trust Agreement as more completely described below. The Trustee has received from the holder of 100% in principal amount of the outstanding Trust Certificates a Written Direction to execute this Amendment.

Section 9.03 of the Equipment Trust Agreement provides for amendment of the Equipment Trust Agreement under such circumstances.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. The terms used in this Amendment which are defined in the Equipment Trust Agreement shall have the same meanings herein as specified therein.

2. The definition of Consolidated Shareholders' Equity in Article One of the Equipment Trust Agreement is amended by the insertion of the phrase "(other than Permitted Investments [computed at the lesser of cost or current market value in the case of investments described in clause (i) of the definition of Permitted Investments] and Investments)" in place of the phrase "(other than Permitted Investments [computed at the lesser of cost or current market value] and Investments)" presently appearing in such definition.

3. The definition of Consolidated Tangible Net Worth in Article One of the Equipment Trust Agreement is amended by the insertion of the phrase "(other than Permitted Investments [computed at the lesser of cost or current market value in the case of investments described in clause (i) of the definition of Permitted Investments] and Investments)" in place of the phrase "(other than Permitted Investment [computed at the lesser of cost or current market value] and Investments)" presently appearing in such definition.

4. The definition of Permitted Investments in Article One of the Equipment Trust Agreement is amended to read in its entirety as follows:

"Permitted Investments shall mean (i) any investments in the form of voting stock, preferred stock, options, warrants, or debt instruments convertible into any of the foregoing, in any of the four corporations identified to the Original Purchaser in a letter from the Company dated April 2, 1980; provided, however, that any investment within this definition be limited to a transaction in which the anticipated investment would not exceed \$40,000,000 in the aggregate and would result in the acquisition of not less than a 15% to 20% equity interest in such corporation; and provided further that such investments shall be outstanding at any time in only one of such four corporations except for investments in another of such four corporations, which investments the Company is in the process of liquidating; and (ii) any investments in any form (including, without limitation, purchases of voting stock, non-voting stock, or shares of beneficial interest in a trust, loans, guarantees of indebtedness, capital contributions or contributions to a trust estate) whether made directly or through a Subsidiary (a) in an aggregate amount not exceeding \$13,125,000 at any time in the "Leasing Company" organized pursuant to the Project Agreement dated February 12, 1980 between PACCAR Inc., a Delaware corporation, and a Subsidiary of the Company, which Leasing Company is owned 90% by PACCAR, Inc. and 10% by the Company, (through such Subsidiary) and will carry on no business other than owning and leasing up to approximately 9,815 railcars and activities related thereto, and (b) in an aggregate amount not exceeding \$2,820,000 at any time in a trust organized pursuant to a Trust Agreement dated as of March 1, 1980 among Ford Motor Credit Company and a Subsidiary of the Company, as owners, and Manufacturers National Bank of Detroit, as trustee, in which trust the Company (through such Subsidiary) has a 15% beneficial interest and Ford Motor Credit Company has an 85% beneficial interest and which trust will carry on no business other than owning and leasing up to approximately 1200 railcars with an aggregate original cost of approximately \$47,000,000 and activities related thereto; provided, however, that in all cases pursuant to this clause (ii) the Company shall, at the time such investment is made, have undertaken the actual

management of the railcars owned by the corporation or trust in which the Company has made such investment, whether by management contract, informal arrangement or otherwise."

5. The definition of Consolidated Net Earnings Available for Restricted Payments in Section 6.05 (b) of Equipment Trust Agreement is amended by the insertion of the phrase "\$13,000,000 if no Permitted Investment of the type described in clause (i) of the definition of Permitted Investments is outstanding, or \$5,000,000 if a Permitted Investment of the type described in clause (i) of the definition of Permitted Investments is outstanding" in place of the phrase "\$13,000,000 if no Permitted Investment is outstanding, or \$5,000,000 if a Permitted Investment is outstanding" now appearing in such definition.

6. Section 6.05(c)(viii) of the Equipment Trust Agreement is amended to read in its entirety as follows:

"(viii) any Lien secured by all or part of a Permitted Investment of the type described in clause (i) of the definition of Permitted Investments incurred in connection with the acquisition or carrying of such Permitted Investment; provided, however that (a) the Debt secured thereby is permitted by Section 6.05(d) and (b) the aggregate amount secured by all such Liens shall not exceed 50% of the amount of such Permitted Investment."

7. Section 4.08 of the Equipment Trust Agreement is amended by deleting in its entirety the second paragraph of such Section.

8. Section 6.05(a) of the Equipment Trust Agreement is amended by changing the figure \$28,000,000 therein to \$33,000,000.

9. Except as modified hereby, the Equipment Trust Agreement shall remain in full force and effect.

10. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument.

11. The provisions of this Amendment and all rights and obligations of the parties hereunder shall be governed by the laws of the State of New York.

12. The Company shall, at its expense, cause this Amendment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303, as soon as possible.

13. Paragraph 7 of this Amendment is intended to, and shall, constitute a release of the Trustee's security interest in the maintenance contract referred to in Section 4.08 of the Equipment Trust Agreement. The Trustee agrees to execute such termination statements (including termination statements on Form UCC-2) and releases presented to it by the Company as may be reasonably necessary or appropriate for any filing necessary or appropriate to accomplish such release.

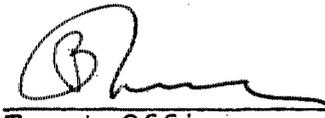
IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the date first above written.

[Corporate Seal]

Attest:

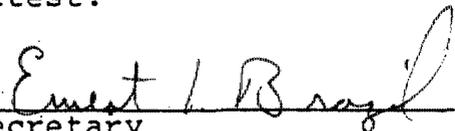
  
\_\_\_\_\_  
Assistant Secretary

MORGAN GUARANTY TRUST COMPANY  
OF NEW YORK, as Trustee

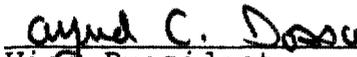
By:   
\_\_\_\_\_  
Trust Officer

[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Secretary

BRAE CORPORATION

By:   
\_\_\_\_\_  
Vice President

STATE OF NEW YORK )  
 )  
COUNTY OF NEW YORK )

On the 2 day of Oct, 1980, before me personally came P. J. CROOKS, to me known, who, being by me duly sworn, did depose and say that he resides at 70 Ferry Street, Lambertville, New Jersey; that he is a Trust Officer of MORGAN GUARANTY TRUST COMPANY OF NEW YORK, one of the corporations described in and which executed the above amendment; that he knows the corporate seal of said corporation; that the seal affixed to said amendment is such corporate seal; that it was so affixed by the authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.

*Sue Scalcione*  
\_\_\_\_\_  
Notary Public

(Notarial Seal)

SUE SCALCIONE  
NOTARY PUBLIC, State of New York  
No. 31-4649545  
Qualified in New York County  
Commission Expires March 30, 1981

STATE OF CALIFORNIA )  
 )  
CITY AND COUNTY OF SAN FRANCISCO )

On the 30th day of July, 1980, before me personally came ALFRED C. DOSSA, to me known, who, being by me duly sworn, did depose and say that he resides at 103 Bella Vista Drive, Hillsborough, California; that he is a Vice President of BRAE CORPORATION, one of the corporations described in and which executed the above amendment; that he knows the corporate seal of said corporation; that the seal affixed to said amendment is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.



*Mirella R. Abbo*  
\_\_\_\_\_  
Notary Public

(Notarial Seal)

**Interstate Commerce Commission**  
Washington, D.C. 20423

10/16/80

OFFICE OF THE SECRETARY

Alfred C. Dossa, Esq.  
Vice President & Gen. Counsel  
Brae Corporation, Suite 1760  
Three Embarcadero Center  
San Francisco, California 94111

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on <sup>10/15/80</sup> ~~10/16/80~~ at <sup>9:40 am</sup> ~~9:40 am~~ and assigned re-  
recording number(s). <sup>10630-Q - 10/16/80 3:05 pm</sup> ~~10630-Q~~ & ~~10630-P~~

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)