

# BRAE CORPORATION

2-350A012

13868 - A  
RECORDATION NO. \_\_\_\_\_ Filed 1425

No.

Date.....1002

Fee \$...10.00

ICC Washington, D. C.]

December 8, 1982

DEC 16 1982 10 52 AM

INTERSTATE COMMERCE COMMISSION

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

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. Section 11303 are one original and six copies of the following document:

Lease Assignment and Agency Agreement dated as of September 20, 1982 between BRAE International, Ltd. and Canadian Pacific, Limited.

This document relates to 100 XM Boxcars marked as follows:

QC 74000 - QC 74099

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

LESSOR: BRAE International, Ltd.  
P. O. Box 77  
Toronto Dominion Bank Tower  
Toronto, Ontario M5K 1E

LESSEE: Canadian Pacific Limited  
Windsor Station, Montreal  
Quebec, Canada H3C 3E4

RECEIVED  
DEC 16 10 50 AM '82  
I.C.C.  
FEE OPERATION BR.

It is requested that this document be filed and recorded under the names of the parties as set forth above. In view of the fact that it relates to a Lease Agreement dated as of August 20, 1982 between BRAE International, Ltd. and Canadian Pacific, Limited, enclosed herewith, also for filing, we request that it be assigned a letter designation under that primary number assigned to the Lease Agreement.

I also enclose a check in the amount of \$10.00 for the required recordation fee.

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 copy of this letter and (4) the original and five copies of the document (retaining one copy for your files), all stamped with your official recordation information.

Very truly yours,

  
Leann Lloyd  
Paralegal

ll nd

Encls.

cc: Alfred C. Dossa, Esq.

DUPLICATE

LEASE ASSIGNMENT AND AGENCY AGREEMENT

RECORDATION NO. 13862-4  
Filed 1425

DEC 16 1982-10 12 AM

INTERSTATE COMMERCE COMMISSION

DATE: September 20, 1982

PARTIES: BRAE International, Ltd., P. O. Box 77, Toronto Dominion Bank Tower, Toronto, Ontario, Canada M5K 1E7 ("BRAE"), BRAE Corporation, Suite 3100, Four Embarcadero Center, San Francisco, California 94111 (the "Corporation"), and WCTU Railway Company, 111 West Jackson Blvd., Chicago, Illinois 60604 ("WCTU").

RECITALS

- A. BRAE and Canadian Pacific, Ltd. ("CP Rail") have entered into a Lease Agreement dated as of August 20, 1982 (the "Lease"), with BRAE as Lessor and CP Rail as Lessee, relating to 100 railcars (the "Cars").
- B. Pursuant to the terms of the Lease, BRAE may assign the Lease in whole or in part without the consent of Lessee.
- C. BRAE desires to assign all of its right, title and interest in the Lease to WCTU, and WCTU desires to accept such assignment of the Lease.
- D. WCTU desires to retain BRAE as its agent to collect rental payments due from CP Rail under the Lease, and BRAE desires to act as agent on behalf of WCTU for this purpose.
- E. In consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

AGREEMENTS:

- 1. BRAE hereby sells, assigns, conveys, transfers and delivers to WCTU all of its right, title and interest in the Lease, and consents and agrees that the Cars to be furnished to CP Rail will be WCTU Cars.
- 2. BRAE covenants and agrees that it shall take all required actions under the Lease in order to effectuate the assignment of the Lease to WCTU hereunder.
- 3. WCTU hereby accepts the assignment of the Lease and covenants with BRAE to assume, faithfully perform, satisfy and/or discharge all of the terms and conditions, obligations and/or responsibilities which were to have been performed, satisfied or discharged by BRAE under the Lease.
- 4. BRAE and/or the Corporation, hereinafter singly or collectively referred to as the "Agent", hereby agree to act as agent on behalf of WCTU to collect all rentals due to WCTU under the Lease and any other revenue due to the Lessor with respect to the Cars under the Lease, identifying itself as agent for that purpose, and Agent further hereby agrees to account for and remit all such sums to WCTU on a monthly basis, within 15 days after receipt by Agent. Agent hereby further agrees that it shall remit all such sums to WCTU without diminution, abatement or set-off, except as provided in Section 5 hereof. It is further agreed that WCTU

may at its election, and at any time during the term, or any renewal term of the Lease, terminate this agency agreement upon 90 days prior written notice to Agent or its successor, delivered any time after January 1, 1983, and appoint another agent, but in no event shall such right of termination or exercise thereof be construed as effecting the assignment of the Lease and acceptance thereof as set forth in paragraphs 1, 2 and 3 above.

5. Agent and WCTU acknowledge that BRAE, as a Canadian resident corporation, is required under Section 215 of the Canadian Income Tax Act to withhold tax on rental income from Canadian sources paid to non-residents of Canada. BRAE hereby agrees to comply with all applicable Canadian laws regarding Withholding Tax. The parties further acknowledge that WCTU is a corporation resident in the United States, and that BRAE would therefore be required under Article XI of the United States-Canada Treaty to withhold tax at the rate of 15% on rental income from Canadian sources paid to WCTU. In order to determine the proper amount of tax to withhold, BRAE, as agent for WCTU, and identifying itself as such to CP Rail, shall request from CP Rail on a monthly basis, records with respect to the amount of revenue earned by the Cars as a result of their use by CP Rail in Canada. The parties acknowledge that such revenue is Canadian source rental income, and that BRAE shall withhold tax at the rate of 15% on such income and pay such income tax to the appropriate Canadian taxing authorities. WCTU hereby agrees to hold BRAE harmless against any and all cost, liability or expense, including interest, penalties, or additional withholding tax incurred by or imposed upon BRAE which in any way relates to or arises out of or in connection with BRAE's agreement to withhold such tax in such amount, except for any cost, liability or expense, including interest, penalties, or additional withholding tax, which would not otherwise have been incurred or imposed, and which results from any default by BRAE in discharging its obligations as described herein.

6. In order to assist WCTU to claim any available foreign tax credits, BRAE shall promptly forward to WCTU upon its reasonable request, records regarding the amount of revenue earned by the Cars as a result of their use by CP Rail in Canada, and the amount of Canadian Withholding Tax paid with respect to such revenue.

7. The parties hereby agree that this Agreement shall be governed by the laws of the state of California.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

BRAE INTERNATIONAL, LTD.

By Lawrence W. Briscoe

Printed Name LAWRENCE W. BRISCOE

Title VICE PRESIDENT

BRAE CORPORATION

By Lawrence W. Briscoe

Printed Name LAWRENCE W. BRISCOE

Title EXECUTIVE VICE PRESIDENT

WCTU Railway Company

By Thomas F. Kealey

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

STATE OF California )  
 ) ss.  
COUNTY OF San Francisco )

On this 29th day of September, 1982, before me personally appeared Lawrence W. Briscoe, to me personally known, who, being by me duly sworn, did depose and say that he is the Vice President of BRAE International Ltd., the corporation which executed the above instrument, that he signed his name to the above instrument by authority of the Board of Directors of said corporation; and that he acknowledged that the execution of the above instrument was the free act and deed of such corporation.



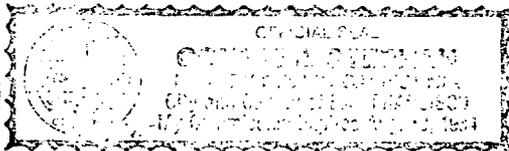
Connie J. Stephan  
Notary Public

[seal]

My Commission Expires: August 10, 1984

STATE OF California )  
 ) ss.  
COUNTY OF San Francisco )

On this 29th day of September, 1982, before me personally appeared Lawrence W. Briscoe, to me personally known, who, being by me duly sworn, did depose and say that he is the Executive Vice President of BRAE Corporation, the corporation which executed the above instrument, that he signed his name to the above instrument by authority of the Board of Directors of said corporation; and that he acknowledged that the execution of the above instrument was the free act and deed of such corporation.



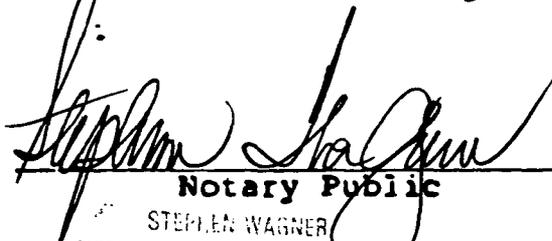
Connie J. Stephan  
Notary Public

[seal]

My Commission Expires: August 10, 1984

STATE OF Ohio )  
COUNTY OF Franklin ) ss.

On the 30th day of Sept, 1982, before me personally appeared Thomas F. Kealey, to me known, who, being by me duly sworn, did depose and say that he is the President of WCTU Railway Co. the corporation which executed the above instrument; that he signed his name to the above instrument by authority of the Board of Directors of said corporation; and that he acknowledged that the execution of the above instrument was the free act and deed of such corporation.

  
Notary Public  
STEPHEN WAGNER  
NOTARY PUBLIC STATE OF OHIO  
My Commission Expires July 2, 1984

[seal]

My Commission Expires: \_\_\_\_\_