

BRAE CORPORATION

RECORDATION NO. 11965-21 Filed 1425

MAR 28 1988 - 1 25 P.M.

INTERSTATE COMMERCE COMMISSION

No. 8-089A050

Date MAR 29 1988

Fee \$ 50.00

RECORDATION NO. 11965-22 Filed 1425

Washington, D. C.

RECORDATION NO. 11965-V Filed 1425

MAR 28 1988 - 1 25 P.M.

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 11965-23 Filed 1425

MAR 28 1988 - 1 25 P.M.

INTERSTATE COMMERCE COMMISSION

VIA HAND DELIVERY

March 25, 1988

MAR 28 1988 - 1 25 P.M.

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 is one original and five copies of the following document:

Second Amendment dated as of July 30, 1984 to the Amended and Restated Credit, Pledge and Security Agreement dated as of July 24, 1981, as amended, among BRAE Transportation, Inc. (formerly BRAE Corporation) and Manufacturers Hanover Trust Company, The First National Bank of Boston, Berliner Handels-Und Frankfurter Bank and the Bank of California, N.A. and Manufacturers Hanover Trust Company, as Agent for the Banks.

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

DEBTOR: BRAE Transportation, Inc.
160 Spear Street, Suite 1600
San Francisco, CA 94105

LENDERS: Manufacturers Hanover Trust Company, Individually
and as Agent for the Banks
270 Park Avenue, 48th Floor
New York, NY 10017

The First National Bank of Boston
100 Federal Street
Boston, MA 02110

Berliner Handels-Und Frankfurter Bank
800 West 6th Street, Suite 900
Los Angeles, CA 90017

The Bank of California, N.A.
400 California Street, 17th Floor
San Francisco, CA 94104

MAR 28 1 25 PM '88

Country Club
Some bills

Ms. Agatha Mergenovich
March 25, 1988
Page Two

Also enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. Section 11303 are two originals and five copies of the following documents:

AGREEMENT dated as of September 28, 1987 between BRAE Transportation, Inc. and Iowa Traction Railroad Company, as lessee.

EQUIPMENT SCHEDULE NO. 2 dated as of March 7, 1988 between BRAE Transportation, Inc. and Iowa Traction Railroad Company, as lessee.

For purposes of this filing, these documents relate only to those 25 railcars marked as follows:

IATR 2000 through IATR 2024 (AAR Mechanical Designation LO)

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

LESSOR: BRAE Transportation, Inc.
160 Spear Street, Suite 1600.
San Francisco, CA 94105

LESSEE: Iowa Traction Railroad Company
P.O. Box 309
Mason City, IA 50401

Also enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. Section 11303 are two originals and five copies of the following documents:

EQUIPMENT SCHEDULE NO. 3 dated as of March 21, 1988 between BRAE Transportation, Inc. and Kyle Railroad Company, as lessee.

For purposes of this filing, these documents relate only to those 122 railcars marked as follows:

KYLE 102300 through KYLE 102377 (AAR Mechanical Designation LO)

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

LESSOR: BRAE Transportation, Inc.
160 Spear Street, Suite 1600
San Francisco, CA 94105

LESSEE: Kyle Railroad Company
Third and Railroad Avenue
Phillipsburgh, KS 67661

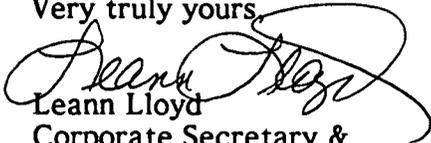
Ms. Agatha Mergenovich
March 25, 1988
Page Three

It is requested that all of the documents described above be filed and recorded under the names of the parties as set forth above. In view of the fact that they all relate to the Amended and Restated Credit, Pledge and Security Agreement dated as of July 24, 1981 among BRAE Transportation, Inc. (formerly BRAE Corporation) and Manufacturers Hanover Trust Company, The First National Bank of Boston, Berliner Handels-Und Frankfurter Bank and the Bank of California, N.A. and Manufacturers Hanover Trust Company, as Agent for the Banks, previously recorded and assigned recordation number 11965, we request that they be assigned the next available letter designations under that primary number.

I also enclose a check in the amount of \$50.00 for the required recordation fee.

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$50.00 filing fee, (3) the enclosed copy of this letter and (4) the originals and four copies of each document (retaining one copy for your files) all stamped with your official recordation information.

Very truly yours,


Leann Lloyd
Corporate Secretary &
Executive Legal Assistant

Enclosures

COPY

AGREEMENT

REGISTRATION NO. 11965-V FINE 1425

MAR 28 1988 -1 25 PM

DATE: SEPTEMBER 28, 1987

INTERSTATE COMMERCE COMMISSION

PARTIES: BRAE Transportation, Inc., 160 Spear Street, Suite 1600, San Francisco, California 94105 ("BRAE"), and Iowa Traction Railroad Company, ~~2 Bunker Hill Square~~, Mason City, Iowa 50401 ("IATR").
Box 309
DKS [Signature]
P. O.

RECITALS:

- A. BRAE and IATR desire to arrange for up to 150 railcars which BRAE either owns or manages (individually a "Car" and collectively the "Cars") to be remarked with the railroad markings of IATR.
- B. In consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

AGREEMENTS:

1. BRAE to Remark Cars. BRAE will, at no expense to IATR, cause the Cars to be remarked with the IATR railroad markings. The Cars will be listed and described by BRAE on the Equipment Schedule(s) to be attached hereto.
2. Delivery. BRAE will cause the Cars to be placed in service at such locations, other than upon the IATR tracks, as BRAE shall select.
3. Cars to be Free on Line. If the Cars return to the IATR tracks, the Cars will be free of all car-hire charges while on the IATR tracks.
4. Term. This Agreement shall commence on July 7, 1987 and shall continue for a period of two (2) years. Thereafter, the Agreement shall be automatically extended for successive two (2) year periods, unless written notice of cancellation is received by either party from the other party at least sixty (60) days prior to the expiration of the initial term or any renewal term.
5. Assignment or Load Agreements. The parties agree that it may be in the best interests of BRAE and IATR to arrange for assignments or usage or load agreements in connection with the utilization of the Cars by other railroads. BRAE may, on behalf of IATR, enter into such assignments or other agreements as it deems appropriate in its sole discretion.
6. Responsibilities of BRAE. BRAE shall be responsible for the maintenance, property tax and insurance costs for the Cars while this Agreement is in effect.
7. Obligations of IATR. If the Cars return to the IATR tracks, IATR shall, pursuant to the Interchange Rules, inspect all Cars interchanged to it to insure that such Cars are in good repair, condition and working order. IATR shall also secure from

interchanging lines any documentation prescribed by the AAR Interchange Rules for damaged Cars, and promptly mail such documentation to BRAE. IATR shall also promptly report to BRAE any damage or other condition of any Car which IATR considers will make such Car unsuitable for use.

8. **Cars Returned to IATR Tracks.** If any Car returns to the IATR tracks, IATR shall notify BRAE of such event within 72 hours. During such 72-hour period IATR may load any such Car off-line, thereby relieving BRAE of its obligations under this Section 8. If IATR does not load any such Car off-line, and BRAE does not cause such Car to be removed from the IATR tracks, BRAE shall pay to IATR the sum of \$1.00 per day with respect to each day that such Car continues to remain on the IATR tracks following such 72-hour notice. BRAE shall pay all such sums to IATR within 30 days following the end of the calendar month in which such sums were earned.

9. **Car Accounting.** BRAE shall, at no cost to IATR, register the Cars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. BRAE shall also, on behalf of IATR, perform all record-keeping functions related to the use of the Cars by IATR and other railroads in accordance with the AAR Interchange Rules and AAR Code of Car Service and Code of Car Hire Rules - Freight, such as car-hire reconciliation. Correspondence from railroads using such Cars shall be addressed to IATR at such address as BRAE shall select. IATR and BRAE agree that BRAE shall continue to provide such record-keeping functions until the termination of all Cars from this Agreement. All record-keeping performed by BRAE hereunder and a record of all payments, charges and correspondence related to the Cars shall be maintained by BRAE in a form suitable for reasonable inspection by IATR from time to time during BRAE's normal business hours.

10. **Car-hire Revenue and Other Compensation.** IATR hereby acknowledges that it shall have no right to any car-hire revenue earned by the Cars, including, but not limited to, any mileage and/or per diem payments, and that BRAE and/or the lessee to whom BRAE is currently leasing the Cars shall be entitled to all such car-hire revenue. As consideration for IATR entering into this Agreement, BRAE agrees to pay IATR the sum of \$5.00 per Car for each month that such Car is subject to this Agreement, pro-rated for partial months. BRAE shall pay such sums to IATR within 30 days following the end of the calendar month in which such sums were earned.

11. **Indemnification.** It is the intention of BRAE and IATR that IATR shall incur no additional liability or legal risk as a result of entering into this Agreement, and in keeping with this desire, the parties hereto do agree as follows:

BRAE will defend, indemnify and hold harmless IATR, its agents and employees, from and against: (i) any and all claims based upon loss or damage to the Cars, unless occurring while IATR has physical possession of the Cars; (ii) any other types of claims, demands, causes of action, damages, liabilities, costs or expense which may be asserted against IATR with respect to the construction, purchase, delivery, ownership, leasing, return, use, maintenance, repair, replacement, operation or condition of the Cars, and claims caused by defects in the manufacture or workmanship of the Cars or any component thereof, or any material incorporated therein; and (iii) any and all claims, demands, expenses, liabilities or causes of action arising out of injury to or death of any person or persons, or loss of or damage to property of the parties hereto, or any other person, firm, or corporation when such injury, death, loss or damage arises from or is connected with any condition whatsoever (except that caused by the sole negligence of IATR) arising from the usage of the Cars as herein provided.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

BRAE TRANSPORTATION, INC.
By Donald B. Littlefield
Printed Name Donald B. Littlefield
Title President - Rail Division

IOWA TRACTION RAILROAD COMPANY
By David K. Johnson
Printed Name DAVID K. JOHNSON
Title PRESIDENT

EQUIPMENT SCHEDULE NO. 1

BRAE TRANSPORTATION, INC. ("BRAE") hereby makes available the following railcars to IOWA TRACTION RAILROAD COMPANY ("IATR") pursuant to that certain Agreement dated as of SEPTEMBER 28, 1987.

<u>Number of Cars</u>	<u>Description</u>	<u>A.A.R. Designation</u>	<u>Car Numbers</u>
-----------------------	--------------------	---------------------------	--------------------

up to 150

BRAE and IATR hereby incorporate by reference all of the terms, conditions and provisions of the Agreement in this Schedule.

IN WITNESS WHEREOF, the parties have each caused their respective duly authorized officers to have executed this Schedule as of the date first written above.

BRAE TRANSPORTATION, INC.

By



Printed Name

DONALD B. LITTLEFIELD

Title

PRESIDENT - RAIL DIVISION

Date

October 12, 1987

IOWA TRACTION RAILROAD COMPANY

By



Printed Name

DAVID K. JOHNSON

Title

PRESIDENT

Date

SEPTEMBER 28, 1987

STATE OF IOWA)
) ss.
COUNTY OF Story)

On this 29th day of SEPTEMBER, 1987, before me personally appeared DAVID K. JOHNSON, to me personally known, who, being by me duly sworn, did depose and say that he is the PRESIDENT of Iowa Traction Railroad Company, 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.

[seal]

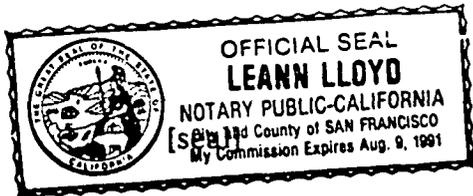
Janice M. Vetter
Notary Public



My commission expires: 9/5/90

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

On this 13th day of October, 1987, before me personally appeared DONALD B. LITTLEFIELD, to me personally known, who, being by me duly sworn, did depose and say that he is the PRESIDENT - RAIL DIVISION of BRAE Transportation, Inc., 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.



Leann Lloyd
Notary Public

My commission expires: Aug 9, 1991