

STEPTOE & JOHNSON

1250 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

CHERYL A. SKIGIN

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RECORDATION NO. Filed 1425
MAR 26 1980 - 1 10 PM

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RECORDATION NO. Filed 1425

March 26, 1980

INTERSTATE COMMERCE COMMISSION

MAR 26 1980 - 1 10 PM

Ms. Agatha Mergenovich
Secretary
Interstate Commerce Commission
Office of the Secretary
SE Room 2215
Washington, D.C. 20423

0-086A038
No.

Date MAR 26 1980

Fee \$ 60.00

ICC Washington, D. C.

RECEIVED
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FEE OPERATION BR.

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. § 11303 are several copies of the following documents which relate to the railroad equipment hereafter identified.

1. Lease Agreement dated as of March 11, 1980, by and between Brae Corporation as Lessor and Ashley, Drew & Northern Railway Company as Lessee.
2. Assignment of Lease dated as of March 21, 1980, from Brae Corporation to Manufacturers National Bank of Detroit assigning the Lease Agreement entered into by and between Brae Corporation and Ashley, Drew & Northern Railway Company.

The equipment subject to these agreements consists of 100 railroad cars bearing the numbers ADN4100 through ADN4199 inclusive.

The names and addresses of the parties to the transaction evidenced by the foregoing documents are as follows:

- Lessor-Assignor: Brae Corporation
3 Embarcadero Center - Suite 1760
San Francisco, CA 94111
- Lessee: Ashley, Drew & Northern Railway Co.
P.O. Box 757
Crossett, Arkansas 71635
- Assignee: Manufacturers National Bank of Detroit
100 Renaissance Center
Detroit, MI 48243

Cheryl A. Skigin
Cheryl A. Skigin

Ms. Agatha Mergenovich
March 26, 1980
Page 2

Please file and record the documents previously enumerated and index them under the names set forth above. Since the documents are related to the same transaction, it is requested that all be assigned the same recordation number with consecutive letter designations for each document after the first listed above.

Please cross-index the Assignment of Lease under the Ashley, Drew & Northern Railway Co. An additional \$10.00 has been included in the filing fee for this purpose.

A check payable to the Interstate Commerce Commission in the amount of \$60.00 is enclosed to cover the filing fees and the extra fee for cross-indexing.

Please return to the person presenting this letter your fee receipt, the enclosed copies of this letter and any copies of the documents not required for recordation, all stamped to indicate appropriate filing information.

Very truly yours,


Cheryl A. Skigin

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

3/26/80

OFFICE OF THE SECRETARY

**Cheryl A. Skigin, Atty.
Steptoe & Johnson
1250 Connecticut Avenue
Washington, D.C. 20036**

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 **3/26/80** at **1:10pm**, and assigned re-
recording number (s). **11610, 11610-A**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

BRAE CORPORATION

ORIGINAL

11610
RECORDATION NO. Filed 1425

LEASE AGREEMENT

MAR 26 1980 - 1 10 PM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT, dated as of this 11th day of March, 1980, between BRAE CORPORATION, a Delaware corporation, Three Embarcadero Center, San Francisco, California 94111 ("BRAE"), as Lessor, and ASHLEY, DREW & NORTHERN RAILWAY COMPANY, an Arkansas corporation ("Lessee"), as Lessee.

1. Scope of Agreement.

A. BRAE agrees to lease to Lessee, and Lessee agrees to lease from BRAE, freight cars as set forth in any lease schedules executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The word "Schedule" as used herein includes the Schedule or Schedules executed herewith and any additional Schedules and amendments thereto, each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively the "Cars."

B. Lessee shall arrange with the Illinois Central Gulf Railroad to place the Cars in assigned service to certain shippers ("Shippers") pursuant to certain shipper assignments ("Shipper Assignments"). In the event that such assignments are terminated during the term hereof, such Cars no longer in assigned service shall be leased pursuant to the full service terms as provided in Section 7 hereof.

C. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

D. This Lease supercedes the lease to the Lessee of certain railcars described on Equipment Schedule No. 1 which is a part of and attached to that certain Lease Agreement dated May 15, 1979, between BRAE and Lessee. It is understood and agreed that said Equipment Schedule is terminated and of no force and effect whatsoever.

2. Term.

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The lease pursuant to this Agreement with respect to each Car shall commence when such Car has been delivered, as provided in Section 3A hereof, and shall continue until fifteen (15) years (the "Initial Lease Term") have expired from the actual date of delivery of the last Car.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, it shall automatically be extended for not more than five consecutive periods of twelve months each (the "Extended Lease Term") with respect to all of the Cars described on each Schedule, provided, however, that BRAE or Lessee may terminate this Agreement at the expiration of the Initial Lease Term or any Extended Lease Term as to all, but not fewer than all, of the Cars on any Schedule by written notice delivered to the other not less than twelve months prior to the end of the Initial Lease Term or such Extended Lease Term.

3. Supply Provisions.

A. BRAE will inspect each of the Cars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to BRAE that the sample Car which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment agreed to by Lessee as set forth on the Schedule(s). Upon such approval by Lessee and BRAE's determination that the Car conforms to the specifications ordered by BRAE and to all applicable governmental regulatory and AAR specifications, and if this Agreement has not then been terminated, BRAE will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Cars shall be deemed delivered to Lessee upon acceptance by BRAE. The Cars shall be moved to Lessee's railroad line at no cost to Lessee as soon after acceptance of delivery by BRAE as is consistent with mutual convenience and economy. Due to the nature of the railroad operations in the United States, BRAE can neither control nor determine when the Cars leased hereunder will actually be available to Lessee for its use on its railroad tracks. Notwithstanding that Lessee may not have immediate physical possession of a Car, the lease hereunder with respect thereto shall commence and Lessee shall pay to BRAE the rent for such Car set forth in this Agreement, all upon acceptance of such Car by BRAE from the manufacturer. In order to move the Cars to Lessee's railroad line and insure optimal use of the Cars after the first loading of freight for each Car on the railroad line of Lessee (the "Initial Loading"), BRAE agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and BRAE, to issue movement orders with respect to such Cars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. Lessee shall give preference to BRAE and shall load the Cars leased from BRAE prior to loading substantially similar freight cars leased from other parties or purchased by Lessee subsequent to the date of this Agreement; provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks.

C. Additional Cars may be leased from BRAE by Lessee only upon the mutual agreement of the parties hereto. Such additional Cars shall be identified in Schedules to this Agreement and shall benefit from and be subject to this Agreement upon execution of the Schedules by BRAE and Lessee. Notwithstanding the execution of any Schedules, including Schedules for additional Cars, the delivery of any Car to Lessee shall be subject to manufacturer's delivery schedules. If, due to any of the factors listed in the preceding sentence, fewer than all of the Cars listed on a Schedule shall be delivered to Lessee, the Initial Lease Term shall terminate fifteen (15) years from the delivery date for the final Car actually delivered, as provided in Section 3A hereof.

4. Railroad Markings and Record Keeping.

A. BRAE and Lessee agree that on or before delivery of any Cars to Lessee, such Cars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. BRAE and Lessee further agree that any Car may also be marked with the name of BRAE and any other information required by an owner or secured party under a financing agreement entered into by BRAE in connection with the acquisition of such Car. All such names, insignia and other information shall comply with all applicable regulations.

B. Lessee shall, or if requested by Lessee, BRAE shall, at no cost to Lessee, during the term of this Agreement prepare for Lessee's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include but shall not be limited to the following: (i) appropriate AAR documents including, at Lessee's option, an application for relief from AAR Car Service Rules 1 and 2; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the ICC and/or other regulatory agencies.

C. Each Car leased hereunder shall be registered at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Lessee shall, on behalf of Lessee, perform all record keeping functions related to the use of the Cars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation, unless Lessee directs BRAE to perform these record keeping functions without cost to Lessee. Correspondence from railroads using such Cars shall be addressed to Lessee at such address as Lessee, or BRAE, at Lessee's request shall select.

D. All record keeping performed by Lessee or BRAE hereunder and a record of all payments, charges and correspondence related to the Cars shall be separately recorded and maintained by Lessee or

BRAE in a form suitable for reasonable inspection by the other party from time to time during Lessee's regular business hours of the party maintaining the records. Lessee shall supply BRAE with such reports, including daily telephone reports of the number of Cars on Lessee's tracks, regarding the use of the Cars by Lessee on its railroad line as BRAE may reasonably request.

5. Maintenance, Taxes and Insurance.

A. Except as otherwise provided herein, BRAE will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during its initial lease term and any extended lease term, including but not limited to repairs, maintenance and servicing, unless the same was occasioned by the fault of Lessee while such Car is in the physical possession of Lessee. Lessee shall inspect all Cars interchanged to it to insure that such Cars are in good working order and condition and shall be liable to BRAE for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to BRAE all of its right, title and interest in any warranty in respect of the Cars. All claims or actions on any warranty so assigned shall be made and prosecuted by BRAE at its sole expense and Lessee shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be payable solely to BRAE; provided however, in the event that Lessee sustains any damages as a result of any breach of warranty with respect to the Cars, the above-mentioned assignment of the manufacturer's warranty shall not operate to preclude Lessee's recovery thereunder as to damages actually sustained.

B. Except as provided in Section 5A hereof, BRAE shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required, including but not limited to governmental or AAR requirements. Upon request of BRAE, Lessee shall perform any necessary maintenance and repairs to Cars on Lessee's railroad tracks as may be reasonably requested by BRAE, which repairs Lessee has, in its opinion, the ability to perform. BRAE shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the term of the lease of such Cars. Lessee may make running repairs, at BRAE's expense, to facilitate continued immediate use of a Car, but shall not otherwise make any repairs, alterations, improvements or additions to the Cars without BRAE's prior written consent. If Lessee makes an alteration, improvement or addition to any car without BRAE's prior written consent, Lessee shall be liable to BRAE for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with BRAE (or its assignee).

C. Lessee will at all times while this Agreement is in effect be responsible for the Cars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules - Freight for freight cars not owned by Lessee on Lessee's railroad tracks.

Lessee will at all times while this Agreement is in effect (both while Cars are on and off line) and at its own expense cause to be carried and maintained, including but not limited to, contingent liability, contractual liability and property damage insurance in an amount and coverage satisfactory to BRAE or maintain a self insurance program which conforms to sound actuarial principles. Such insurance shall be taken out in the name of Lessee and BRAE as their interests may appear. The policies or certificates shall provide that there shall be no recourse against BRAE for the payment of premiums, and shall provide for at least ten (10) business days' prior written notice to be given to BRAE by the underwriters in the event of cancellation or changes in amounts of coverages. If Lessee shall default in the payment of any premium in respect to any such insurance policies, BRAE may, but shall not be obligated to, pay such premium, and charge the amount of such premium to Lessee. Lessee shall furnish BRAE concurrently with the execution hereof and thereafter at intervals of not more than 12 calendar months with a certificate of insurance with respect to the insurance carried on the Cars signed by an independent insurance broker.

D. Lessee agrees to pay for all taxes, assessments and other governmental charges of whatsoever kind or character owed by Lessee relating to each Car and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed during the lease term. BRAE shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee. Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars.

6. Lease Rental.

A. Lessee agrees to pay the following rent to BRAE for the use of the Cars:

(i) BRAE shall receive all payments made to Lessee by other railroad companies for their use or handling of the Cars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "Payments"). For the purpose of determining Utilization, "Car Hour" shall mean one hour during which one Car is on lease hereunder, commencing on the initial loading of such Car. For the purpose of this Agreement, "Utilization" shall

mean with respect to any period a fraction the numerator of which is (x) the aggregate number of Car Hours for which Payments are earned by the Lessee during such period, and the denominator of which is (y) the aggregate number of Car Hours during such period. In addition, BRAE will receive, as additional rental, all monies earned by the Cars prior to their initial loading.

(ii) If BRAE pays other railroads to move Cars in accordance with Section 3A hereof, except for any payments incurred to deliver such Cars to Lessee's railroad line, Lessee shall reimburse BRAE for such payments.

(iii) In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules - Freight and the appropriate amount due as a result thereof is received by BRAE, the damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that car hire Payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, in order to facilitate the financing of the Cars, it is understood and agreed that payments to BRAE shall be made as follows:

(i) In the event Lessee elects to perform all record keeping functions respecting the Cars as provided in Section 4C, Lessee will remit to BRAE in as expeditious a manner as is reasonable but no later than the first business day of the third month after the end of each month in which they are earned (the "Service Month"), an amount equal to 85% of the total payments earned by the Cars based on usage reported for the Service Month and including actual car mileage earnings when available. At the time a Service Month's first remittance is made, Lessee shall report for the same month the dollar figure for 100% of the payments earned. An amount equal to 10% of the payments earned in the Service Month plus any adjustments shall be remitted to BRAE within 30 days after the initial payment and the remaining 5% shall be remitted to BRAE within 60 days of the initial payment. Subsequent to the final payment of a Service Month and after the Lessee has on a best efforts basis been unable to collect 100% of car hire earnings, an adjustment to the Lessee's account will be made in the amount determined to be uncollectable. In the case of a bankrupt railroad an adjustment will be made to the Lessee's account in the amount determined to be uncollectable and such adjustment shall be made at the time such bankruptcy is filed. Lessee agrees to continue for a reasonable period on a best efforts basis to attempt collection of all car hire earnings.

(ii) In the event BRAE is to perform record keeping functions respecting the Cars as provided in Section 4C, and as a result Lessee receives car hire reports from other railroads respecting the Cars, Lessee shall deposit drafts or other payment forms covering car hire payments and on the 5th and 25th of each month remit all amounts collected respecting the Cars to BRAE. However, Lessee may deduct any payments authorized to be made by Lessee with respect to the Cars under this Agreement. Lessee shall also forward to BRAE all car hire reports respecting the Cars and other supporting documentation which BRAE may reasonably request.

(iii) Lessee may deduct from rent required by B(i) and B(ii) above, any amounts due Lessee authorized by this Agreement.

C. In the event a fraction, the numerator of which is the aggregate number of days that car hire payments are earned on the Cars in the immediately preceding four (4) calendar quarters commencing with the first full four (4) calendar quarters after receipt of the last Car on the Schedule executed concurrently herewith, and the denominator of which is the aggregate number of days that the Cars were available to Lessee during such period less the aggregate number of days the Cars were out of service on foreign railroads not earning car hire revenues for any reason, is less than 87.5 percent, BRAE may, at its option and not less than thirty (30) days prior written notice to Lessee, terminate this Agreement with respect to such number of Cars up to a maximum of ninety (90) percent of the Cars; provided, however, that prior to such termination Lessee may have the option of paying BRAE an amount equal to the difference between the amount BRAE actually received during said four (4) calendar quarters and the amount BRAE would have received had a utilization rate for the Cars of 87.5 percent been achieved.

D. Subsequent to the initial loading, if any Car remains on Lessee's railroad tracks for more than seven consecutive days because Lessee has not placed said Car for loading, BRAE may, at its option and upon not less than 24 hours' prior written notice, terminate this Agreement as to such Car and withdraw such Car from Lessee's railroad tracks. Placed for loading means Car has been placed at a particular loading location where the Car will be loaded. If any such Car remains on Lessee's railroad tracks more than seven consecutive days because Lessee has not complied with the provisions of Section 3B, Lessee shall be liable for and remit to BRAE an amount equal to the car hire revenues Lessee would have earned if such Cars were in the physical possession and use of another railroad for the period such Car was replaced by an out of sequence car until loaded.

7. Full Service Lease.

A. In the event that the Shipper Assignment(s) pursuant to which any of the Cars have been assigned are terminated during the term of this Lease, the terms and provisions of Sections 5C and D and all of Section 6 hereof shall become inapplicable to such Cars as are no longer in assigned service and the following provisions shall be substituted therefor:

"5. Maintenance, Taxes and Insurance:

C. Lessee will at all times while the Cars are in unassigned service be responsible for the Cars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Services Rules-Freight for Cars not owned by Lessee on Lessee's railroad tracks. Lessee shall protect against the consequences of an event of loss involving the Cars while on Lessee's railroad tracks, by either obtaining insurance or maintaining self-insurance program which conforms to sound actuarial principles. If Lessee elects to carry insurance, it shall furnish BRAE concurrently with the execution hereof, and thereafter at intervals of not more than 12 calendar months with a certificate of insurance with respect to the insurance carried on the Cars signed by an independent insurance broker. All insurance shall be taken out in the name of Lessee and BRAE (or its assignee) as their interests may appear.

D. BRAE agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Car and on the Lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed subsequent to the termination of the Shipper Assignment relating to such Car(s), but during the Lease term, except taxes on income imposed on Lessee. BRAE and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars. BRAE shall review all applicable tax returns prior to filing, it being understood that such review will be made in a prompt fashion in order to prevent late filings and charges.

E. BRAE will at all times while this Agreement is in effect and at its own expense, cause to be carried and maintained, liability insurance in an amount and coverage satisfactory to Lessee. Such insurance shall be taken out in the name of BRAE and Lessee as their interests may appear. The policies or certificates shall provide that there shall be no recourse against Lessee for the payment of premiums, and shall provide for at least ten (10) business days' prior written notice to be given to Lessee by the underwriters in the event

of cancellation or changes in amounts or coverages. If BRAE shall default in the payment of any premium in respect of any such insurance policies, Lessee may, but shall not be obligated to, pay such premium, and deduct the amount of such premium or premiums from the Rental Charges.

6. Lease Rental.

Lessee agrees to pay rental charges as full payment for the use of the Cars and BRAE's performance hereunder, a monthly Lease rate equal to 1.3% of total cost of the Cars, as registered in the Universal Machine Language Equipment Register (UMLER) of the Association of American Railroads (AAR)."

B. The provisions of substitute Sections 5C, D and E and 6 as set forth in Section 7A hereof shall remain in effect with respect to unassigned Cars until the occurrence of one of the following events:

(i) BRAE remarkets the Cars to a subsequent lessee subject to approval of the Lessee;

(ii) Lessee obtains substitute Shipper Assignments for such unassigned Cars; or

(iii) The expiration of a five (5) year period commencing upon the delivery date of the last Car leased hereunder.

Lessee's obligations pursuant to substitute Sections 5C, D and E and 6 hereof shall extend only to such Cars as are not remarketed in accordance with subparagraph 7B(i) or placed in substitute assigned service in accordance with subparagraph 7B(ii) hereof.

C. In the event that substitute Sections 5C, D and E and 6 become effective with respect to some or all of the Cars and notwithstanding the provisions of Section 15A hereof, Lessee may, at its sole option, sublease such Cars to its parent or a wholly-owned subsidiary or affiliate company wholly-owned by the parent and change the AAR reporting marks accordingly; provided however, Lessee shall at all times remain obligated under the terms of this Lease.

8. Possession and Use.

A. So long as Lessee shall not be in default under this Agreement and subject to the provisions of Section 9B hereof, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of the respective Shipper Assignment and in the manner and to the extent cars are customarily used in the railroad freight business. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by BRAE in connection with the acquisition of some or all of the Cars, i.e., upon notice to Lessee from any such secured party or owner that an event

of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party and/or that Cars be returned to such party; notwithstanding however, Lessee's rights and obligations under this Lease shall not be altered in any manner. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations, and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either BRAE or Lessee upon fifteen (15) days prior written notice to the other party may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Lessee will not directly or indirectly create, incur, assume, or suffer to exist (except as provided in Section 7A) any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars or any interest therein or in this Agreement or any Schedule hereto. Lessee will promptly, at its expense, take such action as may be necessary duly to discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

C. Lessee agrees to use all reasonable efforts in order to preclude the use of the Cars predominately outside of the Continental United States and to use all reasonable efforts to return the Cars to the United States as soon as possible in the event that the Cars are interchanged onto Mexican or Canadian trackage.

9. Reclaim and Early Termination.

A. During the initial five (5) years of the Lease term in which the assignment(s) mentioned in Section 7A remains in effect, Lessee agrees to pay to BRAE Reclaim Charges pursuant to Rule 22 for such periods as the Cars are idle and not being loaded while located at shipper locations on the assigned railroad line. Such Reclaim Charges shall be limited to an amount which will guarantee that the Utilization of the Cars, as defined in Section 6 of the Lease, shall not be less than 93%.

B. During the remaining ten years of the Lease term, in the event a fraction, the numerator of which is the aggregate number of days that per diem is earned on the Cars in the immediately preceding four (4) calendar quarters commencing with the first full four (4) calendar quarters after receipt of the last Car on Equipment Schedule No. 1 to the Lease, and the denominator of which is the aggregate number of days that the Cars were available to the Lessee during such period less the aggregate number of days the Cars were out of service on foreign railroads not earning car hire revenues for any reason, is less than 93.0 percent, BRAE may, at its

option and not less than thirty (30) days prior written notice to Lessee, terminate this Agreement with respect to the Cars; provided however, that prior to such termination Lessee may have the option of paying BRAE an amount equal to the difference between the amount BRAE actually received during said four (4) calendar quarters and the amount BRAE would have received had a utilization rate for the Cars of 93.0 percent been achieved.

10. Default.

A. The occurrence of any of the following events shall be an event of default:

(i) The nonpayment by Lessee or BRAE of any sum required herein to be paid by Lessee or BRAE within ten (10) days after the date any such payment is due.

(ii) The breach by Lessee or BRAE of any other term, covenant, or condition of this Agreement, which is not cured within thirty (30) days after written notice thereof has been delivered to the respective party.

(iii) Any act of insolvency or bankruptcy by Lessee or BRAE, or the filing by Lessee or BRAE of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee or BRAE that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee or BRAE, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of filing or appointment.

(v) The subjection of any of Lessee's or BRAE's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

(vi) Any action by Lessee to discontinue rail service on all or a portion of its tracks or abandon any of its rail properties pursuant to applicable provisions of the laws of the United States of America or of any state if such action would materially decrease the Utilization of the Cars as defined in Section 6A.

(vii) Lessee shall be merged with or consolidated into another corporation which after such merger or consolidation shall have a net worth less than that of Lessee immediately prior thereto.

(viii) The failure or BRAE to comply with the provisions of Sections 4 and 6B hereof.

B. Upon the occurrence of an Event of Default by Lessee, and such Event of Default is not cured within 30 days, BRAE, at its option may terminate this Agreement. Upon the occurrence of an Event of Default by BRAE which has the effect of delaying for a period of greater than 30 days payments otherwise due Lessee pursuant to the terms of this Agreement which causes Lessee to lose the right to utilize the Cars for a period greater than 30 days, and such Event of Default is not cured (including the reinstatement of Lessee's right to utilize the Cars and the payment in full of any delayed payments) within 30 days, Lessee may, at its option, terminate this Agreement. Upon the occurrence of any Event of Default, BRAE or Lessee, if not then in default may, at its respective option, proceed by appropriate court action to enforce performance by the defaulting party of its obligations under the terms of this Agreement or to recover damages for the breach thereof. Lessee and BRAE agree that the defaulting party shall bear the costs and expenses, including reasonable attorneys' fees, of any such action. Upon an Event of Default solely of Lessee, BRAE may, by notice in writing to Lessee, terminate Lessee's right of possession of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon BRAE may, by its agent, enter upon any premises where the Cars may be located and take possession of them and thenceforth hold, possess and enjoy the same free from any rights of Lessee. BRAE shall, nevertheless, have a right to recover from Lessee any and all rent payments which, under the terms of this Agreement may then be due or which may have accrued to that date.

11. Termination.

At the expiration or termination of this Agreement as to any Car, Lessee will surrender possession of such Car to BRAE by delivering the same to BRAE. When all other requirements for expiration or termination have occurred, a Car shall be deemed terminated and no longer subject to this Agreement upon the removal of Lessee's railroad markings from such Car and the placing thereon of such markings as may be designated by BRAE, either, at the option of BRAE, (1) by Lessee upon return of such Car to Lessee's railroad line or (2) by another railroad line which has physical possession of the Car at the time of or subsequent to termination of the lease term as to such Car. If such Car is not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing, and transporting such Car to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by BRAE. If such Car is on the railroad line of Lessee upon such expiration or termination or is subsequently returned to Lessee's railroad line, Lessee shall at its own expense (except in the case of terminations

due to a breach of this Lease by BRAE, then at BRAE's expense) within ten (10) working days remove Lessee's railroad markings from such Car and place thereon such minimally required railroad markings as are established by the AAR and as may be designated by BRAE. After the removal and replacement of markings, Lessee shall use its best efforts to load such Car with freight and deliver it to a connecting carrier for shipment. Lessee shall provide up to ten (10) days' free storage on its railroad tracks for BRAE or the subsequent lessee of any terminated Car. With respect to storage beyond the 10th day, Lessee may charge BRAE published storage charges as a reasonable cost for such storage, or Lessee may, at its option, arrange for storage of such terminated Cars with a third party at the sole risk, cost and expense of BRAE. If any Car is terminated pursuant to Sections 6C, 6E or 8 due to the fault of Lessee hereof prior to the end of its lease term, Lessee shall be liable to BRAE for all costs and expenses incurred by BRAE to repaint such Car and place thereon the markings and name or other insignia of BRAE's subsequent lessee.

12. Indemnities and Disclaimer.

A. BRAE will defend, indemnify and hold Lessee harmless from and against any claim (patent or otherwise), cause of action, damage, liability, fines, cost or expense (including legal fees and costs) which may be asserted against Lessee, its affiliate Companies, officers, employees and agents and those of its affiliate companies, with respect to the Cars of the kind Lessee insures against or self insures, pursuant to Section 5C) unless occurring through the fault of Lessee, including, without limitation, the construction, purchase and delivery of the Cars to Lessee's railroad line, ownership, leasing or return of the Cars, or as a result of or arising out of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by BRAE or Lessee).

B. Any expense of any kind whatsoever incurred by Lessee, which is required under the terms of this Agreement to be borne by BRAE, shall be paid promptly by BRAE to Lessee upon written request therefore by Lessee, including, but not limited to, costs, expenses, fees and charges relating to maintenance, repair or inspection performed or caused to have performed pursuant to governmental or AAR regulations as a result of this Agreement.

C. BRAE MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE CARS. BRAE SHALL IN NO EVENT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR ANY LOSS ARISING IN STRICT LIABILITY.

However, BRAE agrees to assert on Lessee's behalf and expense, or give Lessee authorization to assert on its behalf the vendor's rights against the manufacturer of the Cars pursuant to any manufacturer's warranties, express or implied, which are applicable to

the Cars. A copy of said manufacturer's warranty is attached hereto as Exhibit "A" and made a part of this Lease.

13. Representations, Warranties and Covenants.

Lessee and BRAE respectively represent, warrant and covenant that:

(i) It is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has all necessary corporate power and authority, permits and licenses to perform its obligations under this Agreement.

(ii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to it, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any of its assets or on the Cars pursuant to any instrument to which it is a party or by which it or its assets may be bound.

(iii) There is no action or proceeding pending or threatened against it before any court or administrative agency or other governmental body which might result in any material adverse effect on its business, properties and assets, or conditions, financial or otherwise.

(iv) There is no fact which Lessee has not disclosed to BRAE in writing, nor is Lessee a party to any agreement or instrument nor subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the ability of the Lessee to perform its obligations under this Agreement.

14. Inspection.

BRAE shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify BRAE of any accident connected with the malfunctioning or operation of the Cars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify BRAE in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. Lessee shall furnish to BRAE promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other publicly distributed income or balance sheet statements submitted to the ICC.

15. Miscellaneous.

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not without the prior written consent of BRAE assign this Agreement or any of its rights hereunder or sublease the Cars to any party, and any purported assignment or sublease in violation hereof shall be void. It is understood and agreed that BRAE may assign this Agreement to Manufacturers National Bank of Detroit, as Trustee ("Trustee") under a Trust Agreement with Ford Motor Credit Company and Braecar, Inc., provided that BRAE or one of its wholly-owned subsidiaries enters into a management agreement with the Trustee with respect to the Cars which management agreement shall extend for the entire term of this Lease. Upon delivery of a notice of assignment to Lessee, the term "BRAE" as used herein shall mean the Trustee and BRAE shall be relieved of all of its obligations and liabilities under this Agreement, provided that said obligations and liabilities are delegated to and accepted by the Trustee, (1) Lessee agrees to give its consent and to acknowledge, upon receipt of notice of assignment, the assignment of this Agreement by BRAE to the Trustee and to give its consent to any security assignment provided under any financing agreement entered into by BRAE or the Trustee in connection with the acquisition of all or part of the Cars leased hereunder. Lessee hereby agrees that any such assignment may be with respect to all or part of the Cars to be leased hereunder and may relate to all or part of the Cars on any Schedule hereto. BRAE may assign this Lease to an owner other than the Trustee only upon receipt of the written consent of Lessee.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by BRAE in connection with the acquisition of the Cars in order to confirm the financing party's interest in and to the Cars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 hereof and in furtherance of this Agreement.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars except as a lessee only.

D. No failure or delay by BRAE or Lessee shall constitute a waiver or otherwise affect or impair any right, power or remedy available to BRAE or Lessee nor shall any waiver or indulgence by BRAE or Lessee or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. This Agreement shall be governed by and construed according to the laws of the State of California.

(1) and further provided that such delegation and acceptance are set forth in an Assignment Agreement between BRAE and the Trustee, a fully executed copy of which will be delivered by BRAE to the Lessee.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or three days after deposit in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth in the preamble to this Agreement.

G. No security interest in this Agreement, as chattel paper (as defined in the Uniform Commercial Code), may be created by the transfer of possession except by transfer of an original, duplicate or photocopy of this Agreement and the only original counterpart of the applicable Schedule or Schedules. The original counterpart of each Schedule shall be marked "Original" and delivered to BRAE and all other counterparts thereof shall be duplicates and shall be marked "Duplicate."

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

BRAE CORPORATION

ASHLEY, DREW & NORTHERN
RAILWAY COMPANY

By _____

By _____

Title _____

Title _____

Date _____

Date _____

EQUIPMENT SCHEDULE NO. ONE

BRAE CORPORATION ("BRAE") hereby leases the following railcars to
ASHLEY, DREW & NORTHERN RAILWAY COMPANY ("Lessee"),
 pursuant to that certain Lease Agreement dated as of March,
19 80 (the "Lease").

<u>Number of Cars</u>	<u>Description</u>	<u>A.A.R. Designation</u>	<u>Car Numbers</u>	<u>Physical Dimensions</u>
100	100 ton, 7025 cubic foot Plate <i>FF</i> <i>828 3/18/80</i>	GT	4100-4199	60'6" - Length

BRAE and Lessee hereby incorporate by reference all of the terms, conditions and provisions of the Lease 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 CORPORATION

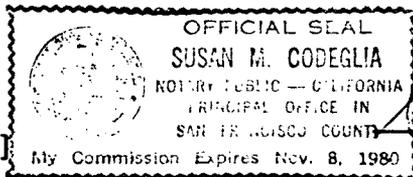
ASHLEY, DREW & NORTHERN RAILWAY COMPANY

By *[Signature]*
 Title President
 Date 3/11/80

By *[Signature]*
 Title President
 Date 3/18/80

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

On this 11th day of March 1980, before me personally appeared William J. Texido, to me personally known, who, being by me duly sworn says that he is President of BRAE Corporation, and that the foregoing Lease Agreement and Equipment Schedule(s) were signed on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of such instruments were the free acts of such corporation.



[seal]

Susan M. Codeglia
NOTARY PUBLIC

My Commission Expires: Nov. 8, 1980

STATE OF Arkansas)
COUNTY OF Ashley)

On this 18th day of March, 1980, before me personally appeared B. R. Teddlor, to me personally known, who, being by me duly sworn says that he is President of Ashley, Branch & Northern Railway Co., and that the foregoing Lease Agreement and Equipment Schedule(s) were signed on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of such instruments were the free acts of such corporation.

[seal]

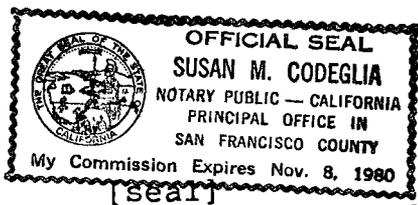
Cora Sue Hill
NOTARY PUBLIC

My Commission Expires: 1-20-81

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

I, Susan M. Codeglia, a Notary Public in and for the State of California, duly commissioned and sworn, do certify that on this 24th day of March, 1980, I carefully compared the annexed copy of the Lease Agreement with the original thereof, and that the same is a full, true and exact copy of said original Lease Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of San Francisco, the day and year in this certificate first above written.



Susan M. Codeglia
Notary Public

My Commission Expires: Nov. 8, 1980

EXHIBIT "A"



THRALL CAR MANUFACTURING COMPANY

P. O. BOX 218 / CHICAGO HEIGHTS, ILLINOIS 60411 / AREA CODE 312 / 757-5900

W A R R A N T Y

Seller guarantees to build the cars in accordance with the applicable specifications and (except as to items specified by Buyer and not manufactured by Seller or furnished or supplied by Buyer) that the cars will be free from defects in material and workmanship under normal use and service.

Seller's obligation under this warranty shall be limited to making good at its plants any part or parts of any of the cars which shall, within one year after delivery of any such car, be returned to the Seller with transportation charges prepaid, and which the Seller's examination shall disclose to its satisfaction to have been thus defective.

This warranty is expressly in lieu of all other warranties expressed or implied, and of all other obligations or liabilities on the part of the Seller.