

**HOWREY & SIMON**

1730 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 783-0800

RECORDATION NO. .... Filed 1425

12064

AUG 1 1980 - 3/25 PM

August 1, 1980

INTERSTATE COMMERCE COMMISSION

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I.C.C. REGISTRATION BR.

**0-214A046**

No. .

Date AUG 1 1980

Fee \$ 70.00

**ICC Washington, D. C.**

MARK D. WEGENER  
(202) 383-7048

Agatha L. Mergenovich,  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303(a) and the rules and regulations thereunder, as amended, I enclose herewith on behalf of RAILEASE Inc, as assignee, for filing and recordation, the counterparts of the following document:

LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT, dated as of July 15, 1980, by and between BRAE Corporation, as lessor-assignor, and RAILEASE Inc, as assignee, assigning the LEASE AGREEMENT dated as of May 15, 1979, entered into by and between BRAE Corporation, as lessor, and Ashley, Drew & Northern Railway Company, as lessee.

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

(1) Lessor-assignor:

BRAE Corporation  
3 Embarcadero Center, Suite 1760  
San Francisco, California 94111

(2) Lessee:

Ashley, Drew & Northern Railway Company  
P.O. Box 757  
Crossett, Arkansas 71636

(3) Assignee:

RAILEASE Inc  
777 106th Avenue, N.E.  
Bellevue, Washington 98004

*David C. Eddy*  
*C. Dudley*

HOWREY & SIMON

Agatha L. Mergenovich  
August 1, 1980  
Page Two

Please record the LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT under the names set forth above. Please cross-index the LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT under the Ashley, Drew & Northern Railway Company. In addition, please cross-index the LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT with the following document which was filed on July 17, 1980, and assigned Recordation No. 12012:

Equipment Trust Agreement dated as of June 30, 1980, by and between The Connecticut Bank and Trust Company, as Trustee-Lessor, and RAILEASE Inc, as Lessee.

The equipment covered by the aforementioned document consists of the following:

200 Box cars, 70-ton, Plate C, free rolling door, sliding sill cushioning, 52'6" in length, 9'6" inside width, 11'1" in height; AAR mechanical designation XM; bearing identifying road numbers ADN 9700-9899, both inclusive.

A check payable to the Interstate Commerce Commission in the amount of \$70.00 is enclosed to cover the recordation fee and cross-indexing fees.

Please stamp the enclosed letter and all counterparts of the document with your official recordation stamp. Please retain one counterpart for your files and return the remaining counterparts to the bearer of this letter.

Very truly yours,

  
Mark D. Wegener,  
as Agent for  
RAILEASE Inc

Enclosures

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

**8/1/80**

OFFICE OF THE SECRETARY

**Mark D. Wegener**  
**Howrey & Simon**  
**1730 Pennsylvania Avenue, N.W.**  
**Washington, D.C. 20006**

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 **8/1/80** at **3:25pm**, and assigned re-  
recording number(s). **12064**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT, dated as of July 15, 1980 among BRAE CORPORATION, a Delaware corporation ("BRAE"), RAILEASE INC, a Washington corporation ("Railease"), and ASHLEY, DREW & NORTHERN RAILWAY COMPANY ("Railroad").

WHEREAS, BRAE and Railease have entered into a Purchase Order Assignment with PACCAR Inc (the "Builder"), providing for the assignment by BRAE to Railease of the rights of BRAE to purchase from the Builder the units of railroad equipment (the "Equipment") described in Equipment Schedule No. 3 to Annex "A" attached hereto;

WHEREAS, BRAE has entered into a Lease Agreement dated May 15, 1979 as supplemented and amended (such Lease Agreement, as heretofore supplemented and amended and subject to this Agreement, and as supplemented hereby, being herein called the "Lease"), with the Railroad, a complete copy of which, as subject to this Agreement, is attached as Annex "A" hereto, providing for the lease by BRAE to the Railroad of certain units of railroad equipment, including the Equipment;

WHEREAS, BRAE has agreed to assign, and shall herein assign, to Railease all of its right, title and interest as the lessor under the Lease to the extent that the Lease relates to the Equipment;

WHEREAS, Railease shall herein assume the obligations and duties of BRAE as lessor under the Lease to the extent that the Lease relates to the Equipment, and the Railroad shall release BRAE from such obligations and duties to the extent so assumed;

WHEREAS, Railease will enter into one or more equipment trust agreements or other financing agreements (each a "Security Document ") with various institutional lenders and/or their representatives (each herein, together with its successors and assigns, a "Lender"), in order to finance a portion of the purchase price of the Equipment;

WHEREAS, any Security Document will contemplate and require that any lease of the Equipment be subject and subordinate to the rights of the Lender under the Security Document;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

1. Scope of Agreement

Any agreements herein contained respecting the Lease and any references herein to the Lease pertain solely to the Lease as

only to the extent that the Lease relates to the Equipment and any additional rail equipment hereafter made subject to the Lease as assigned hereby by written agreement of the Lessor and Lessee, whether or not such specific limitation be set forth.

2. Assignment of BRAE Interest in Lease

BRAE hereby assigns, transfers and sets over unto Railease outright, and not as collateral security, all BRAE's rights, titles and interests, power, privileges in, to and under the Lease including, without limitation, the immediate right to receive and collect all rentals and other sums payable to or receivable from the Railroad by BRAE under or pursuant to the provisions of the Lease whether as rent or otherwise (such moneys being hereinafter called the "Payments") and the right to do any and all other things whatsoever which BRAE is or may become entitled to do under or with respect to the Lease. BRAE hereby irrevocably authorizes and empowers Railease in its own name, or in the name of its nominee, or in the name of BRAE or as attorney for BRAE to ask, demand, sue for, collect and receive any and all Payments to which BRAE is or may become entitled under the Lease, and to enforce compliance by the Railroad with all the terms and provisions thereof.

BRAE represents and warrants to Railease, on and as of the date of execution hereof, and on and as of each date when funds are advanced for the purchase of debt instruments or of equipment under any Security Document, as follows:

(i) The Lease is in full force and effect, neither BRAE nor, to the best of BRAE's knowledge, Railroad is in default in performance of its obligations in respect thereof, and there is no claim or dispute pending thereunder between BRAE and Railroad;

(ii) The Lease, and each amendment or supplement to the Lease subject to this Agreement (other than this Agreement), has been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 as indicated thereon in Annex "A" hereto;

(iii) BRAE has not entered into any assignment of its interests in the Lease, as it relates to the Equipment, other than this Agreement, has not entered into any amendment or modification of the Lease subject to this Agreement other than as shown in Annex "A" hereto, and has not created, incurred or suffered to exist in respect of the Lease, as it relates to the Equipment, any claim, lien, charge or other encumbrance;

(iv) BRAE has full legal power and authority to make and perform this Agreement and to perform its obligations to Railease in respect of the Lease (as heretofore agreed in writing between BRAE and Railease) ;and BRAE's performance of this Agreement and said obligations to Railease will not result in any breach or violation of any law, contractual restriction or other agreement binding upon BRAE or affecting performance of such obligations to Railease in respect of the Lease;

(v) No unit of Equipment has been delivered to the Railroad under the Lease at or before execution of this Agreement; and

(vi) There is no fact which BRAE has not disclosed to Railease in writing, nor is BRAE a party to any agreement or instrument or subject to any corporate or legal restriction which, so far as BRAE can now reasonably foresee, will individually or in the aggregate materially adversely affect the ability of BRAE to perform its obligations to Railease in respect of the Lease (as heretofore agreed in writing between BRAE and Railease).

### 3. Railease Assumption of Lease; Car Management

Railease hereby assumes and agrees to pay, perform and discharge all obligations and liabilities of BRAE (as lessor) arising under the Lease.

Subject to the rights, if any, of any Lender, under any Security Document upon the happening of an Event of Default thereunder, Railease shall be entitled to permit exercise of any Railease right or to cause performance of any Railease obligation or liability under the Lease by BRAE and/or others designated by Railease with Railroad's approval (which will not be unreasonably withheld), and any such exercise or performance thereof shall satisfy Railease's responsibility therefor to BRAE pro tanto. Railease and Railroad hereby represent and warrant to Railroad that as of the date hereof, Railease has, by means of a car management agreement, designated BRAE, and BRAE has undertaken to exercise substantially all of Railease's rights and perform substantially all of Railease's obligations under the Lease, for the benefit of Railease. Except as Railease (or such Lender in the exercise of any such rights) shall advise Railroad in writing from time to time of any change of limitation in such Railease designation and BRAE undertaking, Lessee shall be entitled to rely on the foregoing representation and warranty and in reliance thereon Railroad agrees that it shall look first to BRAE to accomplish the exercise of any Railease right or performance of any Railease obligation under the Lease (it being understood that no such action by Railroad is intended, as between Railease and Railroad, to release Railease from any of its obligations or liabilities to Railroad under the Lease to the extent not satisfied by BRAE and/or others for Railease).

### 4. Railroad Release of BRAE as Lessor

Without limiting the provisions of Section 3 hereof, the Railroad hereby releases and discharges BRAE in its capacity as lessor under the Lease from the payment, performance and discharge of the obligations and liabilities of BRAE as lessor under the Lease which are assumed by Railease pursuant to Section 3 hereof.

## 5. Railroad Consents

The Railroad hereby consents to all the terms and conditions of this Agreement, hereby acknowledges Railease to be substituted as lessor under the Lease, and further agrees that:

(i) it will remit all Payments due and to become due under the Lease or otherwise in respect of the Equipment directly to Railease, care of BRAE, at Three Embarcadero Center, Suite #1760, San Francisco, California 94111, or at such other address as is specified by BRAE; provided that if Railease (or the Lender under any Security Document in the exercise of its rights subsequent to an Event of Default thereunder) shall have notified the Railroad that such Payment arrangements are no longer in effect, then such Payments shall be made to Railease (or such Lender), at the address specified by Railease (or such Lender);

(ii) it shall not be entitled to any abatement of rent, or additional rent, reduction thereof or setoff against or recoupment of rent or additional rent payable under the Lease (including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due with respect to the Equipment), by reason of any past or present claims or counterclaims of the Railroad against BRAE or, as to any Lender under any Security Document exercising the rights of Railease upon an Event of Default thereunder, by reason of any claims or counterclaims of Railroad against Railease; provided, however, that Railroad shall remain entitled to the exercise of all right of abatement, reduction, setoff or recoupment which it may have under the Lease respecting claims against Railease arising after the date hereof.

## 6. Further Assurances

BRAE and Railroad will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by Railease in order to confirm the interest of Railease hereunder and as contemplated by Section 13B of the Lease relative to the financing of the Equipment.

## 7. Governing Law

The Agreement and the Lease (insofar as subject to this Agreement) are agreements governed by the laws of the State of California.

## 8. Counterparts

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names by persons thereunto duly authorized, all as of the date first above written.

RAILEASE, INC.

By \_\_\_\_\_

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

Title \_\_\_\_\_

BRAE CORPORATION

By \_\_\_\_\_

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

Title \_\_\_\_\_

ASHLEY, DREW & NORTHERN RAILWAY CO.

By *S. R. Tedder*

Printed Name S. R. Tedder

Title President

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

On the 18th day of July, 19 80, before me personally appeared Alfred C. Dossa, to me known, who, being by me duly sworn, did depose and say that he is the Vice Pres. General Counsel 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.



[seal]

Mirella R. Abbo  
Notary Public

My Commission Expires: 2/25/83

STATE OF ARKANSAS )  
COUNTY OF Ashley ) ss.

On the 30 day of July, 1980, before me personally appeared S.R. Jodder, to me known, who, being by me duly sworn, did depose and say that he is the President of Ashley, Drew & Northern Railway 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.

Lamara Ann Lippard  
Notary Public

(seal)

My Commission Expires: June 20, 1984

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF                            )

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he is the \_\_\_\_\_ of Railease 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.

\_\_\_\_\_  
Notary Public

[seal]

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

# ANNEX A

## LEASE AGREEMENT

THIS LEASE AGREEMENT, made as of this 15th day of MAY, 1978, between BRAE Corporation, Three Embarcadero Center, San Francisco, CA. 94111 a California Corporation, (Lessor), as Lessor, and Ashley, Drew & Northern Railway Company, Crossett Arkansas, an Arkansas Corporation (Lessee) as Lessee.

### 1. Scope of Agreement

A. BRAE agrees to lease to Lessee, and Lessee agrees to lease from BRAE, boxcars and/or other railroad equipment of the types and descriptions 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 whether for boxcars or other railroad equipment, 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 "Boxcars".

B. It is the intent of the parties to this Agreement that BRAE shall at all times be and remain the lessor of all Boxcars. 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.

### 2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Boxcars as provided herein. The term of lease with respect to all of the Boxcars described on each Schedule shall be for fifteen (15) years commencing upon the date when all Boxcars on such Schedule have been delivered as set forth in Section 3A hereof.

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 separate and consecutive periods of twelve months each with respect to all of the Boxcars described on each Schedule, provided, however, that BRAE or

Lessee may terminate this Agreement as to all, but not fewer than all, of the Boxcars on any such Schedule by written notice delivered to the other not less than twelve months prior to the end of the initial lease term or any extended lease term.

### 3. Supply Provisions

A. BRAE will inspect each of the Boxcars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to BRAE that the sample Boxcar which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment as shown in the Schedule. Upon such approval by Lessee and BRAE's determination that the Boxcar conforms to the specifications ordered by BRAE and to all applicable governmental regulatory and AAR specifications, and this Agreement has not been terminated, BRAE will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Boxcars shall be deemed delivered to Lessee upon acceptance by BRAE. The Boxcars 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, in a manner which is acceptable to the Lessee. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay to BRAE the rent set forth in this Agreement. To move the Boxcars to Lessee's railroad line and insure optimal use of the Boxcars after the first loading of freight for each Boxcar on the railroad line of Lessee (the "initial loading"), BRAE agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and BRAE, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. With respect to placement for loading by shippers on Lessee's railroad tracks, Lessee shall place the Boxcars prior to loading all boxcars subsequently leased or purchased by Lessee or interchanged with railroads; 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 Boxcars may be leased from BRAE by Lessee only upon the mutual agreement of the parties hereto. Upon such agreement, such additional Boxcars 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.

4. Railroad Markings and Record Keeping

A. BRAE and Lessee agree that on or before delivery of any Boxcars to Lessee, said Boxcars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. Such name and/or insignia 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 Boxcars. Such documents shall include but are not 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 Boxcar 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 perform all record keeping functions related to the use of the Boxcars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation unless Lessee elects BRAE to perform these record keeping functions without cost to Lessee. Correspondence from railroads using such Boxcars 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 as the case may be, hereunder and all record of payments, charges and correspondence related to the Boxcars shall be separately recorded and maintained by Lessee or BRAE in a form suitable for reasonable inspection by the other from time to time

during regular business hours of the party maintaining the records. Lessee shall supply BRAE with such reports, including daily telephone reports of the number of Boxcars on Lessee's tracks, regarding the use of the Boxcars 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 Boxcars during its lease term and any extension thereof, including but not limited to repairs, maintenance, inspection and servicing, unless the same was occasioned by the fault of Lessee while such Boxcar is in the physical possession of Lessee. Lessee shall inspect all Boxcars interchanged to it to insure that such Boxcars 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 for and during the lease term of each Boxcar all of its right, title and interest in any warranty in respect to the Boxcars. 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, providing however, if Lessee sustains any damages as a result of any breach of warranty on said Boxcars, this assignment shall not be effective but BRAE and Lessee shall have joint right, title and interest to said warranty and to any such recovery thereunder as their interests may appear.

B. Except as provided above, BRAE shall make or cause to be made such inspections of, and maintenance and repairs to, the Boxcars as may be required, including, but not limited to, requirements of any governmental or AAR regulations. Upon request of BRAE, Lessee shall perform, for BRAE's account, any necessary maintenance and repairs to Boxcars on Lessee's railroad tracks as may be reasonably requested by BRAE and which 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 Boxcars in good operating condition throughout the term of the lease of such Boxcars. Lessee may make running repairs to facilitate continued immediate use of a Boxcar, but shall not otherwise make any repairs, alterations, improvements or additions to the Boxcars without BRAE's prior written consent.

If Lessee makes an alteration, improvement or addition to any Boxcar 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.

C. Lessee will at all times while this Agreement is in effect be responsible for the Boxcars 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 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 boxcars 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 Boxcar and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such boxcar 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 Boxcars.

6. Lease Rental

A. Lessee agrees to pay the following rental charges as full payment for the use of the Boxcars and BRAE's performance hereunder:

(i) BRAE shall receive all payments made to Lessee by other railroad companies for their use or handling of the Boxcars, 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 the Agreement, utilization of the Boxcars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the Boxcars, and the denominator of which is the aggregate number of days in each year that the Boxcars are on lease to Lessee (such term referred to as "utilization").

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

(iii) The rental charges payable to BRAE by Lessee shall be paid from the payments received by Lessee in the following order until BRAE receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges; and (4) other.

(iv) In the event damage beyond repair or destruction of a Boxcar 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, said damaged or destroyed Boxcar will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, since the parties desire that rental payments shall be made currently so that BRAE may meet its financial commitments, payments to BRAE shall be made as follows:

(i) In the event Lessee elects to perform all record keeping functions respecting the Boxcars 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 Boxcars 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 Boxcars as provided in Section 4C, and as a result Lessee receives car hire reports from other railroads respecting the Boxcars, 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 Boxcars to BRAE. However, Lessee may deduct any payments authorized to be made by Lessee under this Agreement. Lessee shall also forward to BRAE all car hire reports respecting the Boxcars 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 per diem is earned on the Boxcars in the immediately preceding four (4) calendar quarters commencing with the first full four (4) calendar quarters after receipt of the last Boxcar on the Schedule executed concurrently herewith, and the denominator of which is the aggregate number of days that the Boxcars were available to the Lessee during such period less the aggregate number of days the Boxcars 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 upon not less than thirty (30) days prior written notice to Lessee, terminate this Agreement with respect to such number of Boxcars up to ninety (90) percent; 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 Boxcars of 87.5 percent been achieved.

D. BRAE may, at its option, terminate this Agreement upon thirty days' written notice to Lessee if the ICC shall, at any time, (1) issue an order reducing incentive car hire for Boxcars on an annual basis to three months or less without a corresponding increase in straight car hire or other monies available to both BRAE and Lessee at least equal in amount to such reduction, (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or (3) require that Lessee spend funds not earned by the Boxcars in order for Lessee to continue to meet its obligations set forth in this section. Lessee may, in any event, terminate this Agreement without liability to BRAE if for any reason governmental regulations or orders prohibit the payment of the Rental Charges described in this Section 6.

E. Subsequent to the initial loading, if any Boxcar remains on Lessee's railroad tracks for more than seven consecutive days because Lessee has not placed said Boxcar for loading, BRAE may, at its option and upon not less than 24 hours' prior written notice, terminate this Agreement as to such Boxcar and withdraw such Boxcar from Lessee's railroad tracks. Placed for loading means Boxcar has been placed at a particular loading location where the Boxcar will be loaded. If any such Boxcar 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 Boxcars 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 provided however that such payments shall be included in car hire payments earned by Lessee on the Boxcars as described in those days Lessee is required to hold Boxcars at the direction of, or due to action taken or used by BRAE.

## 7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with the terms of this Agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business. 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 Boxcars, i.e., upon acknowledgement of receipt of 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 the Boxcars 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 reasonably control use of the Boxcars, the Boxcars 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 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, and upon prior communication to the other party.

B. Lessee will not directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to the Boxcars or any interest therein or in this Agreement or schedule thereto. Lessee will promptly at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim if the same shall arise at any time.

8. 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 thirty days after the date written notice of 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 days after written notice thereof by either party to the other.

(iii) Any affirmative act of insolvency 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 said filing or appointment.

(v) The subjection of any of BRAE's property which is the subject of this Agreement, or any of Lessee'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 Interstate Commerce Act or the laws of any state if it would materially decrease Boxcar utilization as defined in Section 6A.

(vii) The failure of BRAE to comply with the provisions of section 4 and Section 6B.

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 or which causes Lessee to lose the right to utilize the Boxcars for a period of greater than 30 days, and such Event of Default is not cured (including the reinstatement of Lessee's right to utilize the Boxcars 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 attorney's 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 Boxcars, whereupon all right and interest of Lessee in the Boxcars shall terminate; and thereupon BRAE may by its agent enter upon any premises where the Boxcars 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 Rental Charges which under the terms of this Agreement may then be due or which may have accrued to that date.

#### 9. Termination

A. At the expiration or termination of this Agreement as to any Boxcars, Lessee will surrender possession of such Boxcars to BRAE by delivering the same to BRAE. When all other requirements for expiration or termination have occurred, a Boxcar shall be deemed terminated and no longer subject to this Agreement upon the removal of Lessee's railroad markings from the Boxcar 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 Boxcars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Boxcar at the time of or subsequent to termination of the lease term as to such Boxcar. If such Boxcars are not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing and transporting such Boxcars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by BRAE. If such Boxcars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense (except when the termination of the Agreement is due to the fault of BRAE, then at BRAE's expense) within ten working days remove Lessee's railroad markings from the Boxcars and place thereon such minimum railroad identification markings as may be required by AAR and as designated by BRAE. After the removal and replacement of markings, Lessee shall use its best efforts to load such Boxcars with freight and deliver them 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 Boxcar. For any storage after the tenth day hereunder, Lessee may charge BRAE published storage charges as a reasonable cost for such storage, or may, at its option, arrange for suitable storage of such Boxcar with persons not a party to this Agreement at the sole risk, cost, and expense of BRAE. If any Boxcar is terminated pursuant to Section 8, due to the fault of Lessee, prior to the end of its lease term, Lessee shall be liable to BRAE for all costs and expenses incurred by BRAE to repaint the Boxcars and place thereon the markings and name or other insignia of BRAE's subsequent lessee.

#### 10. Indemnities

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, affiliate Companys, officers, employees and agents and those of its affiliate companys, with respect to the Boxcars (other than loss or physical damage to the Boxcars 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 Boxcars to Lessee's railroad line, ownership, leasing or return of the Boxcars, 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), ~~but in any case only to the extent not covered by insurance.~~

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.

#### 11. Representations, Warranties and Covenants

Lessee and BRAE respectively represent, warrant and covenant that:

(i) Lessee and BRAE are corporations duly organized, validly existing and in good standing under the laws of the state

1. legal fees and cost) which may be asserted against lessee, its

where they are incorporated and have the corporate power, authority and are duly qualified and authorized to do business wherever necessary, to carry out their present business and operations and to own or hold under lease their properties and to perform their obligations under this Agreement.

(ii) The entering into and performance of this Agreement as of the initial Boxcar date of delivery will not violate any judgment, order, law or regulation applicable to Lessee or BRAE, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or BRAE or on the Boxcars pursuant to any instrument to which Lessee or BRAE is a party or by which they or their assets may be bound.

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

(iv) There is no fact which either party has not disclosed to the other, nor is either party a party to any agreement or instrument which, so far as can now be reasonably foreseen, will materially adversely affect the ability of such party to perform its obligations under this Agreement.

(v) Lessee has during the years 1964-1968 neither leased any boxcars nor purchased any new or rebuilt boxcars.

## 12. Inspection

BRAE shall at any time during normal business hours have the right to enter the premises where the Boxcars may be located for the purpose of inspecting and examining the Boxcars 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 Boxcars, 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 Boxcar. Lessee, upon BRAE's written request 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 income or balance sheet statements required to be submitted to the ICC.

13. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and assigns. Except for an assignment by BRAE to its parent or a subsidiary or affiliate or an assignment to a financial or banking institution for indebtedness incurred by BRAE, neither BRAE nor Lessee may, without the prior written consent of the other, assign this Lease Agreement or any of its rights hereunder or sublease the Boxcars to any party, and any purported assignment or sublease in violation hereof shall be void.

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 Boxcars in order to confirm the financing party's interest in and to the Boxcars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 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 Boxcars 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 Boxcars 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.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

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

BRAE CORPORATION

BY: \_\_\_\_\_

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN RY. CO.

BY: \_\_\_\_\_

TITLE: President

DATE: May 15, 1979

Rider No. 7 to the Lease Agreement dated as of MAY 15 1979  
Between Brae Corporation and Ashley, Drew & Northern Railway  
Company.

Section 13A of the Lease is deleted in its entirety  
and the following Section 13A is substituted therefor:

"(i) This Agreement and each Schedule shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(ii) Except as provided in this Subsection 13A(ii), Lessee may not without the prior written consent of BRAE assign this Agreement or any of its rights hereunder or sublease any of the Cars to any party. Any such purported assignment or sublease without such consent shall be void. Notwithstanding the foregoing, Lessee may prior to the delivery of the first Car on each Schedule assign all of its rights, duties and obligations under this Agreement with respect to all but not less than all of the Cars on such Schedule to a shortline railroad which is to be organized by Lessee or a corporation which directly or indirectly owns all of the capital stock of Lessee upon the acquisition from the Illinois Central Gulf Railroad of a segment of track approximately 35 miles long located in or around Taylorsville, Mississippi, if (i) all of the capital stock of such assignee railroad is owned, directly or indirectly, by Lessee or any corporation which directly or indirectly owns all of the capital stock of Lessee, and (ii) such assignee railroad and Lessee execute and deliver to BRAE an instrument in form and substance satisfactory to BRAE pursuant to which such assignee railroad agrees to assume all of the rights, duties and obligations of Lessee under this Agreement with respect to the Cars on such assigned Schedule. Upon receipt by BRAE of such an instrument, the term "Lessee" shall, when used with respect to the Cars on such assigned Schedule refer to such assignee railroad and the Ashley, Drew & Northern Railway Company shall be relieved of all obligations and liabilities hereunder with respect to the Cars on such assigned Schedule.

(iii) Lessee agrees to acknowledge, upon receipt, any assignment of this Agreement by BRAE to an owner or secured party under any financing agreement entered into

by BRAE in connection with the acquisition of all or part of the Cars to be 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 listed on any Schedule. Any assignment of this Agreement by BRAE to an owner or secured party shall not subject that owner or secured party to any of BRAE's obligations hereunder. Those obligations shall remain enforceable by Lessee solely against BRAE."

IN WITNESS WHEREOF, BRAE and Lessee have caused this Rider to be executed by their duly authorized officers as of the respective dates set forth below:

ASHLEY, DREW & NORTHERN  
RAILWAY COMPANY

By *R. L. Loder*

Date May 15, 1979

BRAE CORPORATION

By *[Signature]*  
President

Date June 22, 1979

Rider No. 2 To Lease Agreement, made as of this 15th  
day of May, 1979, between BRAE CORPORATION ("BRAE")  
and ASHLEY DREW & NORTHERN RAILWAY CO.

Section 6D is hereby revised by deleting such section in  
its entirety and substituting in lieu thereof, the following:

*Handwritten initials: J, R, R*

D. If the ICC shall, at any time, (1) issue an order reducing incentive car hire payments for Cars on an annual basis to less than three months without a corresponding increase in straight car hire payments or other monies available to both BRAE and Lessee at least equal in amount to such reduction or (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this Section 6, ~~either (i) terminate this Agreement, or (ii) keep this Agreement in effect except that it~~ shall be modified so that thereafter the rent which Lessee shall pay to BRAE for the use of the Cars, notwithstanding anything contained in Section 6A hereof to the contrary, shall be 100% of the payments, of whatever character, 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.

BRAE CORPORATION

BY: [Signature]

TITLE: President

DATE: June 22, 1979

ASHLEY DREW & NORTHERN RWY. CO.

BY: [Signature]

TITLE: President

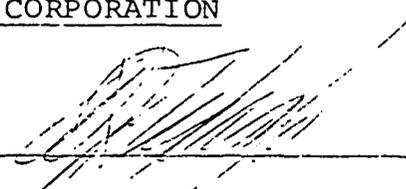
DATE: May 15, 1979

Rider No. 3 to the Lease Agreement made as of MAY 15,  
1979, between BRAE CORPORATION and ASHLEY, DREW & NORTHERN RAILWAY  
COMPANY.

A New Section 1C is added as follows:

"BRAE and Lessee agree that, as between themselves, Lessee shall be entitled to claim the benefits of any available Investment Tax Credit for Federal Income Tax purposes in connection with acquisition of the Cars bearing the identifying numbers 404 4100 - 4199 AND 5300 - 5399 set forth on Equipment Schedule, 1 AND 2 to the Agreement. Such Cars shall be new equipment when delivered to Lessee hereunder and BRAE agrees to execute such documents as may be required to permit Lessee to claim any Investment Tax Credits relating to such Cars."

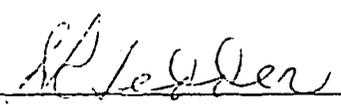
BRAE CORPORATION

BY: 

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN

BY: 

TITLE: President

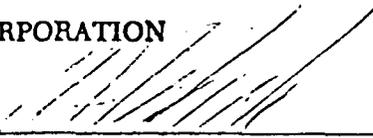
DATE: May 15, 1979

EQUIPMENT SCHEDULE No. 1

BRAE CORPORATION hereby leases the following Cars to Ashely, Drew & Northern Railway Co. pursuant to that certain Lease Agreement dated as of May 15, 1979.

A.A.R. Mech. Design	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
GT	100 Ton, 7025 cu.ft. Plate C	4000-4000	60'6"				100

BRAE CORPORATION

BY: 

TITLE: President

DATE: June 22, 1979

Ashely Drew & Northern

BY: 

TITLE: President

DATE: May 15, 1979

STATE OF Arkansas  
COUNTY OF Jefferson

On this 15th day of March, 1979, before me personally appeared [Signature], to me personally known, who being by me duly sworn says that such person is [Signature] of ADA Inc., that the foregoing Lease Agreement, Rider(s) No. 1, 2, 3 and Equipment Schedule(s) No. 1 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public

STATE OF California  
COUNTY OF San Francisco

On this 22nd day of June, 1979, before me personally appeared [Signature], to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public

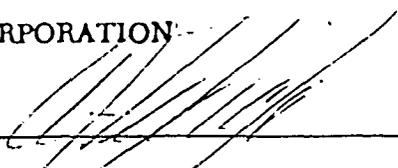


EQUIPMENT SCHEDULE No. 2

BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway.. pursuant to that certain Lease Agreement dated as of May 15....., 1979.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
XP	70 ton, Plate C Free rolling door sliding sill cushioning	5300-5459	52'6"	9'6"	11'1"	12' single	200

BRAE CORPORATION

BY: 

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN

BY: 

TITLE: President

DATE: May 15 1979

STATE OF Alaska  
COUNTY OF Admiral

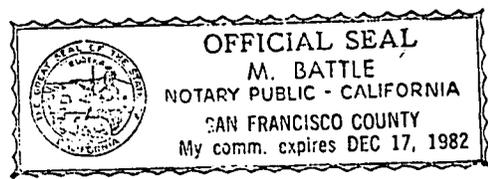
On this 15th day of March, 1977, before me personally appeared [Signature], to me personally known, who being by me duly sworn says that such person is [Signature] of H.D.A. Co., that the foregoing Lease Agreement, Rider(s) No. 1, 2, 3 and Equipment Schedule(s) No. 2 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public

STATE OF California  
COUNTY OF San Francisco

On this 22nd day of June, 1977, before me personally appeared W. J. [Signature] to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public

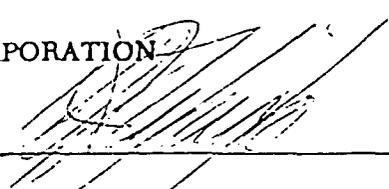


### EQUIPMENT SCHEDULE No. 3

BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway pursuant to that certain Lease Agreement dated as of May 15, 1979.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions Inside		Doors Width	No. of Cars
				Width	Height		
XM	70 ton, Plate C Free rolling door, sliding sill cushioning	9700-9877	52'6"	9'6"	11'1"	12' single	200

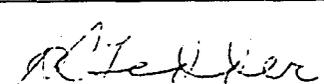
BRAE CORPORATION

BY: 

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN

BY: 

TITLE: President

DATE: May 15 1979

STATE OF Oregon  
COUNTY OF Washington

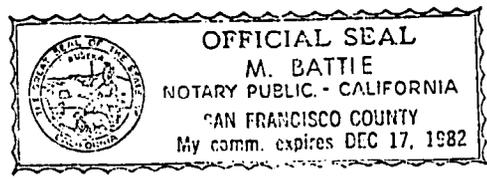
On this 15th day of July, 1974, before me personally appeared [Signature], to me personally known, who being by me duly sworn says that such person is [Signature] of [Signature], that the foregoing Lease Agreement, Rider(s) No/ 2, 3 and Equipment Schedule(s) No. 3... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public

STATE OF California  
COUNTY OF San Mateo

On this 22nd day of June, 1974, before me personally appeared [Signature] to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

[Signature]  
Notary Public



AUG 1 1980 - 3:25 PM

MINISTERS OF THE COMMISSION

LEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT, dated as of July 15, 1980 among BRAE CORPORATION, a Delaware corporation ("BRAE"), RAILEASE INC, a Washington corporation ("Railease"), and ASHLEY, DREW & NORTHERN RAILWAY COMPANY ("Railroad").

WHEREAS, BRAE and Railease have entered into a Purchase Order Assignment with PACCAR Inc (the "Builder"), providing for the assignment by BRAE to Railease of the rights of BRAE to purchase from the Builder the units of railroad equipment (the "Equipment") described in Equipment Schedule No. 3 to Annex "A" attached hereto;

WHEREAS, BRAE has entered into a Lease Agreement dated May 15, 1979 as supplemented and amended (such Lease Agreement, as heretofore supplemented and amended and subject to this Agreement, and as supplemented hereby, being herein called the "Lease"), with the Railroad, a complete copy of which, as subject to this Agreement, is attached as Annex "A" hereto, providing for the lease by BRAE to the Railroad of certain units of railroad equipment, including the Equipment;

WHEREAS, BRAE has agreed to assign, and shall herein assign, to Railease all of its right, title and interest as the lessor under the Lease to the extent that the Lease relates to the Equipment;

WHEREAS, Railease shall herein assume the obligations and duties of BRAE as lessor under the Lease to the extent that the Lease relates to the Equipment, and the Railroad shall release BRAE from such obligations and duties to the extent so assumed;

WHEREAS, Railease will enter into one or more equipment trust agreements or other financing agreements (each a "Security Document") with various institutional lenders and/or their representatives (each herein, together with its successors and assigns, a "Lender"), in order to finance a portion of the purchase price of the Equipment;

WHEREAS, any Security Document will contemplate and require that any lease of the Equipment be subject and subordinate to the rights of the Lender under the Security Document;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

1. Scope of Agreement

Any agreements herein contained respecting the Lease and any references herein to the Lease pertain solely to the Lease as

only to the extent that the Lease relates to the Equipment and any additional rail equipment hereafter made subject to the Lease as assigned hereby by written agreement of the Lessor and Lessee, whether or not such specific limitation be set forth.

2. Assignment of BRAE Interest in Lease

BRAE hereby assigns, transfers and sets over unto Railease outright, and not as collateral security, all BRAE's rights, titles and interests, power, privileges in, to and under the Lease including, without limitation, the immediate right to receive and collect all rentals and other sums payable to or receivable from the Railroad by BRAE under or pursuant to the provisions of the Lease whether as rent or otherwise (such moneys being hereinafter called the "Payments") and the right to do any and all other things whatsoever which BRAE is or may become entitled to do under or with respect to the Lease. BRAE hereby irrevocably authorizes and empowers Railease in its own name, or in the name of its nominee, or in the name of BRAE or as attorney for BRAE to ask, demand, sue for, collect and receive any and all Payments to which BRAE is or may become entitled under the Lease, and to enforce compliance by the Railroad with all the terms and provisions thereof.

BRAE represents and warrants to Railease, on and as of the date of execution hereof, and on and as of each date when funds are advanced for the purchase of debt instruments or of equipment under any Security Document, as follows:

(i) The Lease is in full force and effect, neither BRAE nor, to the best of BRAE's knowledge, Railroad is in default in performance of its obligations in respect thereof, and there is no claim or dispute pending thereunder between BRAE and Railroad;

(ii) The Lease, and each amendment or supplement to the Lease subject to this Agreement (other than this Agreement), has been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 as indicated thereon in Annex "A" hereto;

(iii) BRAE has not entered into any assignment of its interests in the Lease, as it relates to the Equipment, other than this Agreement, has not entered into any amendment or modification of the Lease subject to this Agreement other than as shown in Annex "A" hereto, and has not created, incurred or suffered to exist in respect of the Lease, as it relates to the Equipment, any claim, lien, charge or other encumbrance;

(iv) BRAE has full legal power and authority to make and perform this Agreement and to perform its obligations to Railease in respect of the Lease (as heretofore agreed in writing between BRAE and Railease) ;and BRAE's performance of this Agreement and said obligations to Railease will not result in any breach or violation of any law, contractual restriction or other agreement binding upon BRAE or affecting performance of such obligations to Railease in respect of the Lease;

(v) No unit of Equipment has been delivered to the Railroad under the Lease at or before execution of this Agreement; and

(vi) There is no fact which BRAE has not disclosed to Railease in writing, nor is BRAE a party to any agreement or instrument or subject to any corporate or legal restriction which, so far as BRAE can now reasonably foresee, will individually or in the aggregate materially adversely affect the ability of BRAE to perform its obligations to Railease in respect of the Lease (as heretofore agreed in writing between BRAE and Railease).

### 3. Railease Assumption of Lease; Car Management

Railease hereby assumes and agrees to pay, perform and discharge all obligations and liabilities of BRAE (as lessor) arising under the Lease.

Subject to the rights, if any, of any Lender, under any Security Document upon the happening of an Event of Default thereunder, Railease shall be entitled to permit exercise of any Railease right or to cause performance of any Railease obligation or liability under the Lease by BRAE and/or others designated by Railease with Railroad's approval (which will not be unreasonably withheld), and any such exercise or performance thereof shall satisfy Railease's responsibility therefor to BRAE pro tanto. Railease and Railroad hereby represent and warrant to Railroad that as of the date hereof, Railease has, by means of a car management agreement, designated BRAE, and BRAE has undertaken to exercise substantially all of Railease's rights and perform substantially all of Railease's obligations under the Lease, for the benefit of Railease. Except as Railease (or such Lender in the exercise of any such rights) shall advise Railroad in writing from time to time of any change of limitation in such Railease designation and BRAE undertaking, Lessee shall be entitled to rely on the foregoing representation and warranty and in reliance thereon Railroad agrees that it shall look first to BRAE to accomplish the exercise of any Railease right or performance of any Railease obligation under the Lease (it being understood that no such action by Railroad is intended, as between Railease and Railroad, to release Railease from any of its obligations or liabilities to Railroad under the Lease to the extent not satisfied by BRAE and/or others for Railease).

### 4. Railroad Release of BRAE as Lessor

Without limiting the provisions of Section 3 hereof, the Railroad hereby releases and discharges BRAE in its capacity as lessor under the Lease from the payment, performance and discharge of the obligations and liabilities of BRAE as lessor under the Lease which are assumed by Railease pursuant to Section 3 hereof.

## 5. Railroad Consents

The Railroad hereby consents to all the terms and conditions of this Agreement, hereby acknowledges Railease to be substituted as lessor under the Lease, and further agrees that:

(i) it will remit all Payments due and to become due under the Lease or otherwise in respect of the Equipment directly to Railease, care of BRAE, at Three Embarcadero Center, Suite #1760, San Francisco, California 94111, or at such other address as is specified by BRAE; provided that if Railease (or the Lender under any Security Document in the exercise of its rights subsequent to an Event of Default thereunder) shall have notified the Railroad that such Payment arrangements are no longer in effect, then such Payments shall be made to Railease (or such Lender), at the address specified by Railease (or such Lender);

(ii) it shall not be entitled to any abatement of rent, or additional rent, reduction thereof or setoff against or recoupment of rent or additional rent payable under the Lease (including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due with respect to the Equipment), by reason of any past or present claims or counterclaims of the Railroad against BRAE or, as to any Lender under any Security Document exercising the rights of Railease upon an Event of Default thereunder, by reason of any claims or counterclaims of Railroad against Railease; provided, however, that Railroad shall remain entitled to the exercise of all right of abatement, reduction, setoff or recoupment which it may have under the Lease respecting claims against Railease arising after the date hereof.

## 6. Further Assurances

BRAE and Railroad will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by Railease in order to confirm the interest of Railease hereunder and as contemplated by Section 13B of the Lease relative to the financing of the Equipment.

## 7. Governing Law

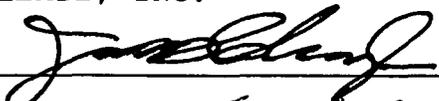
The Agreement and the Lease (insofar as subject to this Agreement) are agreements governed by the laws of the State of California.

## 8. Counterparts

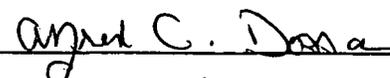
This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names by persons thereunto duly authorized, all as of the date first above written.

RAILEASE, INC.

By   
Printed Name JACK A. CHANTREY  
Title PRESIDENT

BRAE CORPORATION

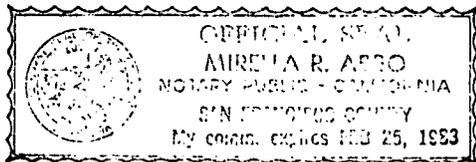
By   
Printed Name ALFRED C. DOSSA  
Title Vice President

ASHLEY, DREW & NORTHERN RAILWAY CO.

By \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF California )  
COUNTY OF San Francisco ) ss.

On the 18th day of July, 19 80, before me personally appeared Alfred C. Dosca, to me known, who, being by me duly sworn, did depose and say that he is the Vice Pres. General Counsel of BRAC 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.



[seal]

Mirella R. Abbo  
Notary Public

My Commission Expires: 2/25/83

STATE OF ARKANSAS                    )  
  ) ss.  
COUNTY OF                            )

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he is the \_\_\_\_\_ of Ashley, Drew & Northern Railway 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.

\_\_\_\_\_  
Notary Public

(seal)

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

STATE OF WASHINGTON )

COUNTY OF KING )

) ss.

On the 30th day of July, 1980, before me personally appeared James D. Chantrey, to me known, who, being by me duly sworn, did depose and say that he is the President of Railease 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.

Virginia S. Tipton  
Notary Public

[seal]

My Commission Expires: 1/24/81

# ANNEX A

## LEASE AGREEMENT

THIS LEASE AGREEMENT, made as of this 15th day of May, 1979, between BRAE Corporation, Three Embarcadero Center, San Francisco, CA. 94111 a California Corporation, (Lessor), as Lessor, and Ashley, Drew & Northern Railway Company, Crossett Arkansas, an Arkansas Corporation (Lessee) as Lessee.

### 1. Scope of Agreement

A. BRAE agrees to lease to Lessee, and Lessee agrees to lease from BRAE, boxcars and/or other railroad equipment of the types and descriptions 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 whether for boxcars or other railroad equipment, 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 "Boxcars".

B. It is the intent of the parties to this Agreement that BRAE shall at all times be and remain the lessor of all Boxcars. 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.

### 2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Boxcars as provided herein. The term of lease with respect to all of the Boxcars described on each Schedule shall be for fifteen (15) years commencing upon the date when all Boxcars on such Schedule have been delivered as set forth in Section 3A hereof.

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 separate and consecutive periods of twelve months each with respect to all of the Boxcars described on each Schedule, provided, however, that BRAE or

Lessee may terminate this Agreement as to all, but not fewer than all, of the Boxcars on any such Schedule by written notice delivered to the other not less than twelve months prior to the end of the initial lease term or any extended lease term.

### 3. Supply Provisions

A. BRAE will inspect each of the Boxcars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to BRAE that the sample Boxcar which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment as shown in the Schedule. Upon such approval by Lessee and BRAE's determination that the Boxcar conforms to the specifications ordered by BRAE and to all applicable governmental regulatory and AAR specifications, and this Agreement has not been terminated, BRAE will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Boxcars shall be deemed delivered to Lessee upon acceptance by BRAE. The Boxcars 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, in a manner which is acceptable to the Lessee. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay to BRAE the rent set forth in this Agreement. To move the Boxcars to Lessee's railroad line and insure optimal use of the Boxcars after the first loading of freight for each Boxcar on the railroad line of Lessee (the "initial loading"), BRAE agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and BRAE, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. With respect to placement for loading by shippers on Lessee's railroad tracks, Lessee shall place the Boxcars prior to loading all boxcars subsequently leased or purchased by Lessee or interchanged with railroads; 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 Boxcars may be leased from BRAE by Lessee only upon the mutual agreement of the parties hereto. Upon such agreement, such additional Boxcars 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.

#### 4. Railroad Markings and Record Keeping

A. BRAE and Lessee agree that on or before delivery of any Boxcars to Lessee, said Boxcars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. Such name and/or insignia 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 Boxcars. Such documents shall include but are not 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 Boxcar 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 perform all record keeping functions related to the use of the Boxcars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation unless Lessee elects BRAE to perform these record keeping functions without cost to Lessee. Correspondence from railroads using such Boxcars 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 as the case may be, hereunder and all record of payments, charges and correspondence related to the Boxcars shall be separately recorded and maintained by Lessee or BRAE in a form suitable for reasonable inspection by the other from time to time

during regular business hours of the party maintaining the records. Lessee shall supply BRAE with such reports, including daily telephone reports of the number of Boxcars on Lessee's tracks, regarding the use of the Boxcars 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 Boxcars during its lease term and any extension thereof, including but not limited to repairs, maintenance, inspection and servicing, unless the same was occasioned by the fault of Lessee while such Boxcar is in the physical possession of Lessee. Lessee shall inspect all Boxcars interchanged to it to insure that such Boxcars 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 for and during the lease term of each Boxcar all of its right, title and interest in any warranty in respect to the Boxcars. 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, providing however, if Lessee sustains any damages as a result of any breach of warranty on said Boxcars, this assignment shall not be effective but BRAE and Lessee shall have joint right, title and interest to said warranty and to any such recovery thereunder as their interests may appear.

B. Except as provided above, BRAE shall make or cause to be made such inspections of, and maintenance and repairs to, the Boxcars as may be required, including, but not limited to, requirements of any governmental or AAR regulations. Upon request of BRAE, Lessee shall perform, for BRAE's account, any necessary maintenance and repairs to Boxcars on Lessee's railroad tracks as may be reasonably requested by BRAE and which 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 Boxcars in good operating condition throughout the term of the lease of such Boxcars. Lessee may make running repairs to facilitate continued immediate use of a Boxcar, but shall not otherwise make any repairs, alterations, improvements or additions to the Boxcars without BRAE's prior written consent.

If Lessee makes an alteration, improvement or addition to any Boxcar 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.

C. Lessee will at all times while this Agreement is in effect be responsible for the Boxcars 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 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 boxcars 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 Boxcar and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such boxcar 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 Boxcars.

6. Lease Rental

A. Lessee agrees to pay the following rental charges as full payment for the use of the Boxcars and BRAE's performance hereunder:

(i) BRAE shall receive all payments made to Lessee by other railroad companies for their use or handling of the Boxcars, 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 the Agreement, utilization of the Boxcars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the Boxcars, and the denominator of which is the aggregate number of days in each year that the Boxcars are on lease to Lessee (such term referred to as "utilization").

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

(iii) The rental charges payable to BRAE by Lessee shall be paid from the payments received by Lessee in the following order until BRAE receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges; and (4) other.

(iv) In the event damage beyond repair or destruction of a Boxcar 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, said damaged or destroyed Boxcar will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, since the parties desire that rental payments shall be made currently so that BRAE may meet its financial commitments, payments to BRAE shall be made as follows:

(i) In the event Lessee elects to perform all record keeping functions respecting the Boxcars 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 Boxcars 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 Boxcars as provided in Section 4C, and as a result Lessee receives car hire reports from other railroads respecting the Boxcars, 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 Boxcars to BRAE. However, Lessee may deduct any payments authorized to be made by Lessee under this Agreement. Lessee shall also forward to BRAE all car hire reports respecting the Boxcars 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 per diem is earned on the Boxcars in the immediately preceding four (4) calendar quarters commencing with the first full four (4) calendar quarters after receipt of the last Boxcar on the Schedule executed concurrently herewith, and the denominator of which is the aggregate number of days that the Boxcars were available to the Lessee during such period less the aggregate number of days the Boxcars 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 upon not less than thirty (30) days prior written notice to Lessee, terminate this Agreement with respect to such number of Boxcars up to ninety (90) percent; 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 Boxcars of 87.5 percent been achieved.

D. BRAE may, at its option, terminate this Agreement upon thirty days' written notice to Lessee if the ICC shall, at any time, (1) issue an order reducing incentive car hire for Boxcars on an annual basis to three months or less without a corresponding increase in straight car hire or other monies available to both BRAE and Lessee at least equal in amount to such reduction, (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or (3) require that Lessee spend funds not earned by the Boxcars in order for Lessee to continue to meet its obligations set forth in this section. Lessee may, in any event, terminate this Agreement without liability to BRAE if for any reason governmental regulations or orders prohibit the payment of the Rental Charges described in this Section 6.

E. Subsequent to the initial loading, if any Boxcar remains on Lessee's railroad tracks for more than seven consecutive days because Lessee has not placed said Boxcar for loading, BRAE may, at its option and upon not less than 24 hours' prior written notice, terminate this Agreement as to such Boxcar and withdraw such Boxcar from Lessee's railroad tracks. Placed for loading means Boxcar has been placed at a particular loading location where the Boxcar will be loaded. If any such Boxcar 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 Boxcars 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 provided however that such payments shall be included in car hire payments earned by Lessee on the Boxcars as described in those days Lessee is required to hold Boxcars at the direction of, or due to action taken or used by BRAE.

## 7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with the terms of this Agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business. 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 Boxcars, i.e., upon acknowledgement of receipt of 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 the Boxcars 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 reasonably control use of the Boxcars, the Boxcars 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 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, and upon prior communication to the other party.

B. Lessee will not directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to the Boxcars or any interest therein or in this Agreement or schedule thereto. Lessee will promptly at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim if the same shall arise at any time.

## 8. 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 thirty days after the date written notice of 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 days after written notice thereof by either party to the other.

(iii) Any affirmative act of insolvency 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 said filing or appointment.

(v) The subjection of any of BRAE's property which is the subject of this Agreement, or any of Lessee'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 Interstate Commerce Act or the laws of any state if it would materially decrease Boxcar utilization as defined in Section 6A.

(vii) The failure of BRAE to comply with the provisions of section 4 and Section 6B.

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 or which causes Lessee to lose the right to utilize the Boxcars for a period of greater than 30 days, and such Event of Default is not cured (including the reinstatement of Lessee's right to utilize the Boxcars 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 attorney's 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 Boxcars, whereupon all right and interest of Lessee in the Boxcars shall terminate; and thereupon BRAE may by its agent enter upon any premises where the Boxcars 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 Rental Charges which under the terms of this Agreement may then be due or which may have accrued to that date.

#### 9. Termination

A. At the expiration or termination of this Agreement as to any Boxcars, Lessee will surrender possession of such Boxcars to BRAE by delivering the same to BRAE. When all other requirements for expiration or termination have occurred, a Boxcar shall be deemed terminated and no longer subject to this Agreement upon the removal of Lessee's railroad markings from the Boxcar 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 Boxcars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Boxcar at the time of or subsequent to termination of the lease term as to such Boxcar. If such Boxcars are not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing and transporting such Boxcars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by BRAE. If such Boxcars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense (except when the termination of the Agreement is due to the fault of BRAE, then at BRAE's expense) within ten working days remove Lessee's railroad markings from the Boxcars and place thereon such minimum railroad identification markings as may be required by AAR and as designated by BRAE. After the removal and replacement of markings, Lessee shall use its best efforts to load such Boxcars with freight and deliver them 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 Boxcar. For any storage after the tenth day hereunder, Lessee may charge BRAE published storage charges as a reasonable cost for such storage, or may, at its option, arrange for suitable storage of such Boxcar with persons not a party to this Agreement at the sole risk, cost, and expense of BRAE. If any Boxcar is terminated pursuant to Section 8, due to the fault of Lessee, prior to the end of its lease term, Lessee shall be liable to BRAE for all costs and expenses incurred by BRAE to repaint the Boxcars and place thereon the markings and name or other insignia of BRAE's subsequent lessee.

#### 10. Indemnities

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 affiliate Companys, officers, employees and agents and those of its affiliate companys, with respect to the Boxcars (other than loss or physical damage to the Boxcars 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 Boxcars to Lessee's railroad line, ownership, leasing or return of the Boxcars, 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), ~~but in any case only to the extent not covered by insurance.~~

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.

#### 11. Representations, Warranties and Covenants

Lessee and BRAE respectively represent, warrant and covenant that:

(i) Lessee and BRAE are corporations duly organized, validly existing and in good standing under the laws of the state

1. legal fees and cost) which may be asserted against lessee, its

where they are incorporated and have the corporate power, authority and are duly qualified and authorized to do business wherever necessary, to carry out their present business and operations and to own or hold under lease their properties and to perform their obligations under this Agreement.

(ii) The entering into and performance of this Agreement as of the initial Boxcar date of delivery will not violate any judgment, order, law or regulation applicable to Lessee or BRAE, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or BRAE or on the Boxcars pursuant to any instrument to which Lessee or BRAE is a party or by which they or their assets may be bound.

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

(iv) There is no fact which either party has not disclosed to the other, nor is either party a party to any agreement or instrument which, so far as can now be reasonably foreseen, will materially adversely affect the ability of such party to perform its obligations under this Agreement.

(v) Lessee has during the years 1964-1968 neither leased any boxcars nor purchased any new or rebuilt boxcars.

## 12. Inspection

BRAE shall at any time during normal business hours have the right to enter the premises where the Boxcars may be located for the purpose of inspecting and examining the Boxcars 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 Boxcars, 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 Boxcar. Lessee, upon BRAE's written request 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 income or balance sheet statements required to be submitted to the ICC.

13. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and assigns. Except for an assignment by BRAE to its parent or a subsidiary or affiliate or an assignment to a financial or banking institution for indebtedness incurred by BRAE, neither BRAE nor Lessee may, without the prior written consent of the other, assign this Lease Agreement or any of its rights hereunder or sublease the Boxcars to any party, and any purported assignment or sublease in violation hereof shall be void.

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 Boxcars in order to confirm the financing party's interest in and to the Boxcars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 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 Boxcars 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 Boxcars 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.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

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

BRAE CORPORATION

BY: \_\_\_\_\_

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN RY. CO.

BY: \_\_\_\_\_

TITLE: President

DATE: May 15 1979

Rider No. 1 to the Lease Agreement dated as of MAY 15 1979  
Between Brae Corporation and Ashley, Drew & Northern Railway  
Company.

Section 13A of the Lease is deleted in its entirety  
and the following Section 13A is substituted therefor:

"(i) This Agreement and each Schedule shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(ii) Except as provided in this Subsection 13A(ii), Lessee may not without the prior written consent of BRAE assign this Agreement or any of its rights hereunder or sublease any of the Cars to any party. Any such purported assignment or sublease without such consent shall be void. Notwithstanding the foregoing, Lessee may prior to the delivery of the first Car on each Schedule assign all of its rights, duties and obligations under this Agreement with respect to all but not less than all of the Cars on such Schedule to a shortline railroad which is to be organized by Lessee or a corporation which directly or indirectly owns all of the capital stock of Lessee upon the acquisition from the Illinois Central Gulf Railroad of a segment of track approximately 35 miles long located in or around Taylorsville, Mississippi, if (i) all of the capital stock of such assignee railroad is owned, directly or indirectly, by Lessee or any corporation which directly or indirectly owns all of the capital stock of Lessee, and (ii) such assignee railroad and Lessee execute and deliver to BRAE an instrument in form and substance satisfactory to BRAE pursuant to which such assignee railroad agrees to assume all of the rights, duties and obligations of Lessee under this Agreement with respect to the Cars on such assigned Schedule. Upon receipt by BRAE of such an instrument, the term "Lessee" shall, when used with respect to the Cars on such assigned Schedule refer to such assignee railroad and the Ashley, Drew & Northern Railway Company shall be relieved of all obligations and liabilities hereunder with respect to the Cars on such assigned Schedule.

(iii) Lessee agrees to acknowledge, upon receipt, any assignment of this Agreement by BRAE to an owner or secured party under any financing agreement entered into

by BRAE in connection with the acquisition of all or part of the Cars to be 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 listed on any Schedule. Any assignment of this Agreement by BRAE to an owner or secured party shall not subject that owner or secured party to any of BRAE's obligations hereunder. Those obligations shall remain enforceable by Lessee solely against BRAE."

IN WITNESS WHEREOF, BRAE and Lessee have caused this Rider to be executed by their duly authorized officers as of the respective dates set forth below:

ASHLEY, DREW & NORTHERN  
RAILWAY COMPANY

BRAE CORPORATION

By *R. L. Linder*

By *[Signature]*  
President

Date May 15, 1979

Date June 22, 1979

Rider No. 2 To Lease Agreement, made as of this 15th  
day of May, 1979, between BRAE CORPORATION ("BRAE")  
and ASHLEY DREW & NORTHERN RAILWAY CO.

Section 6D is hereby revised by deleting such section in  
its entirety and substituting in lieu thereof, the following:

11.1  
11.1  
12  
D. If the ICC shall, at any time, (1) issue an  
order reducing incentive car hire payments for Cars  
on an annual basis to less than three months without  
a corresponding increase in straight car hire payments  
or other monies available to both BRAE and Lessee at  
least equal in amount to such reduction or (2) determine  
that Lessee may not apply its incentive car hire  
receipts in payment of the rental charges set forth in  
this Section 6, either ~~(i) terminate this Agreement,~~  
or ~~(ii) keep this Agreement in effect except that it~~  
shall be modified so that thereafter the rent which  
Lessee shall pay to BRAE for the use of the Cars,  
notwithstanding anything contained in Section 6A  
hereof to the contrary, shall be 100% of the payments,  
of whatever character, 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.

BRAE CORPORATION

BY: [Signature]

TITLE: President

DATE: June 22, 1979

ASHLEY DREW & NORTHERN RWY. CO.

BY: [Signature]

TITLE: President

DATE: June 15, 1979

Rider No. 3 to the Lease Agreement made as of June 15, 1977, between BRAE CORPORATION and ASHLEY, DREW & NORTHERN RAILWAY COMPANY.

A New Section 1C is added as follows:

"BRAE and Lessee agree that, as between themselves, Lessee shall be entitled to claim the benefits of any available Investment Tax Credit for Federal Income Tax purposes in connection with acquisition of the Cars bearing the identifying numbers 404 4100 - 4195 and 5300 - 5302 set forth on Equipment Schedule 1 and 2 to the Agreement. Such Cars shall be new equipment when delivered to Lessee hereunder and BRAE agrees to execute such documents as may be required to permit Lessee to claim any Investment Tax Credits relating to such Cars."

BRAE CORPORATION

BY: [Signature]

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN

BY: [Signature]

TITLE: President

DATE: May 15, 1979

EQUIPMENT SCHEDULE No. *1*

BRAE CORPORATION hereby leases the following Cars to Ashely, Drew & Northern Railway Co. pursuant to that certain Lease Agreement dated as of July 13, 1979, 1979.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
GT	100 Ton, 7025 cu.ft. Plate C		60'6"				100

BRAE CORPORATION  
 BY: [Signature]  
 TITLE: President  
 DATE: June 22, 1979

Ashely, Drew & Northern  
 BY: [Signature]  
 TITLE: President  
 DATE: \_\_\_\_\_

STATE OF California }  
COUNTY OF San Francisco }

On this 10th day of June, 1979, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn says that such person is \_\_\_\_\_ of \_\_\_\_\_, that the foregoing Lease Agreement, Rider(s) No. 1, 2, 3 and Equipment Schedule(s) No. 1 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

Carla S. ...  
Notary Public

STATE OF California }  
COUNTY OF San Francisco }

On this 10th day of June, 1979, before me personally appeared J. L. ..., to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

...  
Notary Public

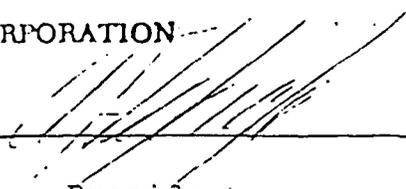


EQUIPMENT SCHEDULE No. 2

BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway.. pursuant to that certain Lease Agreement dated as of 06/22/79, 1979.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions Inside Width		Height	Doors Width	No. of Cars
XP	70 ton, Plate C Free rolling door sliding sill cushioning	5200-5470	52'6"	9'6"	11'1"	12' single	200	

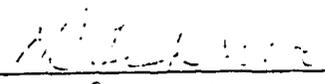
BRAE CORPORATION

BY: 

TITLE: President

DATE: June 22, 1979

ASHLEY, DREW & NORTHERN

BY: 

TITLE: President

DATE: June 25, 1979

STATE OF California }  
COUNTY OF San Francisco }

On this 17 day of July, 1977, before me personally appeared William S. Lee,  
to me personally known, who being by me duly sworn says that such person is President of  
BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. 1, 2, 3 and Equip-  
ment Schedule(s) No. 2 were signed on behalf of said corporation by authority of its board of  
directors, and such person acknowledged that the execution of the foregoing instruments were the  
free acts and deeds of such corporation.

William S. Lee  
Notary Public

STATE OF California }  
COUNTY OF San Francisco }

On this 17 day of July, 1977, before me personally appeared William S. Lee  
to me personally known, who being by me duly sworn says that such person is President of  
**BRAE CORPORATION**, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment  
Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of direc-  
tors, and such person acknowledged that the execution of the foregoing instruments were the free  
acts and deeds of such corporation.

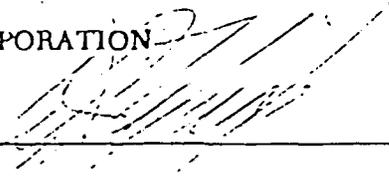
William S. Lee  
Notary Public

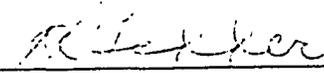


### EQUIPMENT SCHEDULE No. 3

BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway pursuant to that certain Lease Agreement dated as of 1/4/79, 1979.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
XM	70 ton, Plate C Free rolling door, sliding sill cushioning	1700-1871	52'6"	9'6"	11'1"	12' single	200

BRAE CORPORATION  
 BY:   
 TITLE: President  
 DATE: June 22, 1979

ASHLEY, DREW & NORTHERN  
 BY:   
 TITLE: Resident  
 DATE: 1/15/79

STATE OF California  
COUNTY OF San Francisco

On this 15th day of June, 1974, before me personally appeared John S. Battie, to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. 2, 3 and Equipment Schedule(s) No. 2 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

John S. Battie  
Notary Public

STATE OF California  
COUNTY OF San Francisco

On this 20th day of June, 1974, before me personally appeared John S. Battie to me personally known, who being by me duly sworn says that such person is President of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

John S. Battie  
Notary Public

