

STEPTOE & JOHNSON

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

INTERSTATE COMMERCE COMMISSION

ROBERT J. CORBER

(202) 429-8108

December 15, 1988

DEC 16 1988 10:45 AM

RECORDATION NO. 1 6083

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Room 2215
Washington, D.C. 20423

NS--351A100
Date DEC 16 1988
Fee \$ 13.00
ICC Washington, D.C.

Dear Ms. McGee:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. §11303 are the original and three (3) copies of the document hereinafter described. The Document relates to the railroad equipment identified below.

1. Letter Agreement dated as of July 22, 1988 between Brae Transportation, Inc., lessor, and Kansas City Terminal Railway Company, lessee.

The equipment subject to this document consists of 60 gondola cars bearing the marks KCT 5000 - 5003, 5005, 5007, 5011, 5016, 5019, 5021, 5023 - 5024, 6001 - 6020, 7001 - 7019, 9000 - 9002, 9007 - 9009, and 9013 - 9015, inclusive.

The names and addresses of the parties to the document are as follows.

Lessor: Brae Transportation, Inc.
One Hundred Sixty Spear Street
San Francisco, CA 94105

Lessee: Kansas City Terminal Railway
Company
P.O. Box 412737
Kansas City, MO 64141-2737

A fee of \$13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the person presenting this letter.

A short summary of the document to appear in the index follows:

1. Letter Agreement dated as of July 22, 1988 between Brae Transportation, Inc., and Kansas City Terminal Railway Company covering gondola cars marked as stated in the document.

*Counterpart
Presented*

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Ms. Noreta R. McGee
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Since this document also relates to the Equipment Trust Agreement between BRAE Corporation and The Connecticut Bank and Trust Company recorded under Recordation No. 11498, it is requested that this document be cross-indexed under that Recordation Number.

Very truly yours,



Robert J. Corber
Attorney for Brae
Transportation, Inc.

Enclosures as stated

BRAE CORPORATION

VIA EXPRESS MAIL

July 22, 1988

Mr. Dale E. House
Freight Agent and Superintendent
Kansas City Terminal Railway Company
P.O. Box 412737
Kansas City, MO 64141-2737

Dear Dale:

This letter sets forth the terms and conditions pursuant to which BRAE Transportation, Inc. ("BTI") has made available those sixty (60) gondola cars identified on Equipment Schedule No. 1 attached (the "Cars") for use by Kansas City Terminal Railway Company ("KCT") (this "Agreement").

1. **Term.** This Agreement shall be effective as of the date hereof and shall continue until either party receives thirty (30) days written notice of termination from the other party.
2. **Delivery.** BTI and KCT hereby acknowledge that the Cars have been delivered to and accepted by KCT, and that further deliveries of Cars to KCT are not required pursuant to this Agreement.
3. **Rental.** KCT shall collect and pay to BTI all car hire (including time and mileage) payments made to KCT by other railroad companies for their use and handling of the Cars ("Car Hire Payments"). KCT will not grant or allow any reclaim, pay any empty mileage charges or permit any other reductions in Car Hire Payments without BTI's prior written consent. BTI shall retain 100% of all Car Hire Payments collected, provided however, that if the Utilization (as hereinafter defined) for a given service month is greater than 65%, KCT shall be entitled to \$30.00 per Car with respect to such service month. For purposes of determining Utilization, "Car Hour" shall mean one hour during which one Car is on lease hereunder, commencing as of August 1, 1988. The term "Utilization" shall mean, with respect to any period, a fraction, the numerator of which is (x) the total Car Hire Payments earned by the Cars during such period, less \$30.00 multiplied by the number of Cars on lease for such period, and the denominator of which is (y) the aggregate number of Car Hours during such period multiplied by the then applicable weighted average per diem rate of the Cars, plus the aggregate number of Car Days (Car Hours divided by 24) during such period multiplied by the then applicable weighted average mileage rate with respect to the Cars, multiplied by ⁵⁰ miles of travel per day per Car. The applicable per diem and mileage rates shall be determined pursuant to the UMLER Hourly and Mileage Car Hire Rate Table. Amounts due KCT from BTI for a given service month shall be paid within thirty (30) days of receipt by BTI of the Car Hire Payments for such service month.

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4. **Record-Keeping.** BTI shall, on behalf of KCT, perform all record-keeping functions related to the use of the Cars by KCT and other railroads in accordance with the AAR Interchange Rules and AAR Code of Car Service and Code of Car Hire Rules-Freight.

5. **Maintenance.** BTI shall be responsible for the maintenance and repairs for the Cars, in accordance with the AAR Interchange Rules. KCT agrees that BTI shall be responsible for designating the repair facilities for damaged Cars which are subject to any defect cards and for work classified as owner's responsibility. BTI shall have full control over the performance and acceptance of such repair work. KCT shall furnish BTI with original AAR billing repair cards for all repairs made to the Cars. KCT shall not deduct repair charges from Car Hire Payments received for the Cars, but shall submit repair charges separately from all other charges. Any exceptions to repairs taken by BTI shall be made directly to KCT.

6. **Taxes.** BTI shall be responsible for the payment and filing of all property taxes levied or imposed upon the Cars while this Agreement is in effect.

7. **Insurance.** KCT shall, at all times while this Agreement is in effect, be responsible for the Cars while on KCT's railroad tracks in the same manner that KCT is responsible under the AAR Interchange Rules for freight cars not owned by KCT on KCT's railroad tracks. KCT shall protect against the consequences of an event of loss involving the Cars while on KCT's railroad tracks by maintaining bodily injury and property damage liability insurance with minimum coverage of \$1,000,000 per occurrence on the Cars and by maintaining insurance protecting against damage to the Cars with minimum coverage of \$60,000 per occurrence, or by maintaining a self-insurance program with equivalent coverage. In the event KCT elects to carry insurance, all insurance shall be taken out in the name of KCT and shall name BTI (or its assignee) as an additional insured.

8. **Return of Cars.** Upon the termination of this Agreement, KCT shall surrender possession of the Cars to BTI at any interchange point located on the KCT railroad tracks as BTI may request, at KCT's sole expense, free of refuse, and in good repair, condition and working order, ordinary wear and tear excepted.

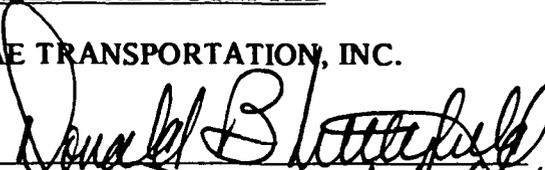
Please indicate your concurrence by executing both originals of this Agreement and returning them to Susan McDonough in San Francisco.

Sincerely,


Dennis Daniels
Regional Manager

AGREED AND ACCEPTED

BRAE TRANSPORTATION, INC.

By 
Printed Name Donald B. Littlefield
Title President - RAIL DIVISION
Date 9-06-88

KANSAS CITY TERMINAL
RAILWAY COMPANY

By 
Printed Name D. E. House
Title Supt-Agent
Date 8-22-88

EQUIPMENT SCHEDULE NO. 1

BRAE TRANSPORTATION, INC. ("BTI") hereby leases the following railcars to KANSAS CITY TERMINAL RAILWAY COMPANY ("KCT"), pursuant to that certain Agreement dated as of ~~September~~ July 20, 1988 (the "Agreement").

<u>Number of Cars</u>	<u>Description</u>	<u>AAR Mechanical Designation</u>	<u>Car Markings and Car Number(s)</u>
60	100-ton, 52'6" Gondola Cars	GB or GBS	KCT 5000-5003 5005, 5007 5011, 5016 5019, 5021 5023-5024 6001-6020 7001-7019 9000-9002 9007-9009 9013-9015

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

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the 20th day of September, 1988

BRAE TRANSPORTATION, INC.
By *Donald B. Littlefield*
Printed Name Donald B. Littlefield
Title President - Rail Division
Date 9-06-88

KANSAS CITY TERMINAL RAILWAY COMPANY
By *D. E. House*
Printed Name D. E. House
Title Supt-Agent
Date 8-22-88

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

On this 16th day of September, 1988, before me personally appeared Donald B. Littlefield, to me personally known, who being by me duly sworn says that such person is President - Rail Division of BRAE TRANSPORTATION, INC., and that the foregoing Agreement, and Equipment Schedule 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.



Lynn Lloyd
Notary Public

My commission expires: 8/9/91

STATE OF Missouri)
) ss.
COUNTY OF JACKSON)

On this 22nd day of August, 1988, before me personally appeared D. E. House, to me personally known, who being by me duly sworn says that such person is The Superintendent of KANSAS CITY TERMINAL RAILWAY COMPANY and that the foregoing Agreement, and Equipment Schedule 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.

[seal]

C. N. Thurman
Notary Public

My commission expires: March 9, 1990

C. N. THURMAN
Notary Public - State of Missouri
Commissioned in Jackson County
My Commission Expires March 9, 1990