STEPTOE & JOHNSON
ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

ROBERT J. CORBER
(202) 429-8108

RECORDATION NO. 1 6034 FILED 1988

NOV 17 1988 9 32 AM

INTERSTATE COMMERCE COMMISSION

November 17, 1988

No. 8-322A030
Date NOV 17 1988
Fee $ 13.00
ICC Washington, D. C.

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

Dear Ms. McGee:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. §11303 are the original and one copy of the document hereinafter described. It relates to the railroad equipment identified below.

1. Lease Agreement dated as of October 22, 1987 between Brae Transportation, Inc., as lessor, and Texas, Oklahoma & Eastern Railroad Company, as lessee.

The equipment subject to this agreement consists of 28 railroad cars bearing the marks TOE 7100 - 7127, 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, California 94105

Lessee: Texas, Oklahoma & Eastern
Railroad Company
810 Whittington Avenue
Hot Springs, Arkansas 71901

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 each document to appear in the index follows:

Nov 17 9 21 AM '88
MOTOR CARRIER JUNIT

1. Lease Agreement dated as of October 22, 1987 between Brae Transportation, Inc., and Texas, Oklahoma & Eastern Railroad Company, covering railcars marked TOE 7100 through 7127.

Very truly yours,

Robert J. Corber

Enclosures as stated

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INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

COPY

LEASE AGREEMENT, dated as of October 22, 1987, between BRAE TRANSPORTATION, INC., 160 Spear Street, Suite 1600, San Francisco, California 94105, ("BRAE"), as lessor, and TEXAS, OKLAHOMA & EASTERN RAILROAD COMPANY, an Oklahoma Corporation, 810 Whittington Avenue, Hot Springs, Arkansas 71901 ("LESSEE"), as lessee.

1. Scope of Agreement

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

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

This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The lease pursuant to this Agreement with respect to each Car shall commence when such Car has been delivered, as provided in Section 3A hereof, and shall continue until December 31, 1989.

3. Supply Provisions

A. BRAE shall cause each Car to be moved to LESSEE's railroad line at no cost to LESSEE as soon after execution and delivery of this Agreement as is consistent with mutual convenience and economy. Each of the Cars shall be deemed delivered to LESSEE once each has been (i) interchanged to LESSEE's railroad line, and (ii) marked with LESSEE's railroad markings, pursuant to Section 4A hereof, provided, however, that LESSEE may reject any Car that is unsuitable for loading. LESSEE will assist BRAE in minimizing any transportation costs incurred in delivering the Cars to LESSEE. Due to the nature of the railroad operations in the United States, BRAE can neither control nor determine when the Cars leased hereunder will actually be available to LESSEE for its use on its railroad tracks. Notwithstanding that LESSEE may not have immediate physical possession of a Car, the Lease hereunder with respect thereto shall commence and LESSEE shall pay to BRAE the rent for such Car set forth in this Agreement, all upon delivery of such Car by BRAE as provided herein. In order to move the Cars to LESSEE's railroad line and insure optimal use of the Cars after the first loading of freight for each Car on the railroad line of LESSEE (the "Initial Loading"), BRAE agrees to assist LESSEE in monitoring Car movements and, when deemed necessary by LESSEE and BRAE, to issue movement orders with respect to such Cars to other railroad lines in accordance with Interstate Commerce Commission ("ICC") and Association of American Railroads ("AAR") interchange agreements and rules. Hereinafter, Interchange Rules shall mean all codes, rules, interpretations, laws or orders governing hire, service, use, condition, repair and all other matters pertaining to the interchange of freight traffic reasonably interpreted as

being applicable to the Cars, adopted and in effect from time to time by the AAR and any other organization, association, agency or governmental authority, including the ICC and the United States Department of Transportation, which may from time to time be responsible for or have authority to impose such codes, rules, interpretations, laws or orders.

B. LESSEE agrees that so long as it shall have on lease any Cars, it shall not lease similar freight cars from any other party until it shall have received all of the Cars on the Schedule,* If during any one calendar month the average utilization of all Cars falls below 75%, then BRAE may by written notice to LESSEE of such an event require LESSEE to load the Cars leased from BRAE hereunder prior to loading substantially similar cars leased from other parties, or purchased by LESSEE or interchanged with railroads, in each case subsequent to the date of this Agreement. Any priority loading required under this paragraph shall be commenced as soon as practicable after receipt of BRAE's notice to LESSEE (but not to exceed two days) and shall continue until such time as the average utilization of all Cars shall equal or exceed 75% for one calendar month. While priority loading is in effect, LESSEE shall, upon reasonable request by BRAE, furnish to BRAE its records with respect to loadings and shipments. In the event that LESSEE does not priority load the Cars in violation of this Section 3B, LESSEE agrees to remit to BRAE $350 as liquidated damages for each time that a boxcar is loaded in violation of this Section 3B, provided, however, that LESSEE shall be obligated to make such payments to BRAE only until BRAE has received revenues equal to the revenues the Cars would have earned if they had earned hourly car hire payments equal to 75% Utilization (calculated monthly) and had earned mileage charges equal to 65 miles per day per Car (calculated monthly), but excluding any bad ordered Cars from such minimum revenue calculation. This Section 3B shall be subordinate to an Agreement dated November 1, 1984 between BRAE and LESSEE.

4. **Railroad Markings and Record Keeping**

A. BRAE and LESSEE agree that on or before delivery of any Cars to LESSEE, such Cars will be lettered with the railroad markings of LESSEE, at BRAE's expense. Such Cars may also be marked with the name and/or other insignia used by LESSEE, at LESSEE's expense. BRAE will permit LESSEE to submit a bid for the marking of the Cars subject to this Agreement. BRAE and LESSEE further agree that any Car may also be marked with the name of BRAE and any other information required by an owner or secured party under a financing agreement entered into by BRAE in connection with the acquisition of such Car. All such names, insignia and other information shall comply with all applicable regulations.

B. At no cost to LESSEE, BRAE shall during the term of this Agreement prepare for LESSEE's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include but shall not be limited to the following: (i) appropriate AAR documents; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) such reports as may be required from time to time by the ICC and/or other regulatory agencies.

C. Each Car leased hereunder shall be registered at no cost to LESSEE in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; provided, however, that BRAE shall not be responsible for any fee assessed by such publication for the listing or registration of LESSEE itself, as distinguished from the registration of additional equipment to LESSEE. BRAE shall, on behalf of LESSEE, perform all record-keeping functions (except car accounting) related to the use of

*or February 1, 1988, whichever occurs first.

the Cars by LESSEE and other railroads in accordance with the Interchange Rules and AAR railroad interchange agreements, such as car hire reconciliation. Correspondence from railroads using such Cars shall be addressed to LESSEE at such address as BRAE shall select.

D. All record keeping performed by BRAE hereunder and a record of all payments, charges and correspondence related to the Cars shall be separately recorded and maintained by BRAE in a form suitable for reasonable inspection by LESSEE from time to time during BRAE's regular business hours. LESSEE shall supply BRAE with such reports, including daily telephone reports of the number of Cars on LESSEE's tracks, regarding the use of the Cars by LESSEE on its railroad line and LESSEE's obligations under this Agreement as BRAE may reasonably request.

5. **Maintenance, Taxes and Insurance**

A. Except as otherwise provided herein, BRAE will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during the term of this Agreement, including but not limited to property and ad valorem taxes, repairs, maintenance and servicing, unless the same was occasioned by the fault of LESSEE. LESSEE shall, pursuant to the Interchange Rules, inspect all Cars interchanged to it to insure that such Cars do not contain refuse, and are in good repair, condition and working order. LESSEE shall be liable to BRAE for any cleaning, servicing, or repairs required but not noted at the time of interchange. LESSEE shall promptly report to BRAE any damage or other condition of any Car which LESSEE considers will make such Car unsuitable for use. LESSEE hereby transfers and assigns to BRAE all of its right, title and interest in any warranty in respect of the Cars. All claims or actions on any warranty so assigned shall be made and prosecuted by BRAE at its sole expense and LESSEE shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be payable solely to BRAE.

B. Except as provided in Section 5A hereof, BRAE, at its sole expense, shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required or deemed necessary by BRAE. Upon request of BRAE, and at BRAE's sole expense, LESSEE shall perform any necessary maintenance and repairs to Cars on LESSEE's railroad tracks, in accordance with the Interchange Rules, and at rates negotiated between BRAE and LESSEE for labor and materials, as may be reasonably requested by BRAE. BRAE shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the term of the lease of such Cars. LESSEE may make running repairs, in accordance with the Interchange Rules and standards, at BRAE's expense, to facilitate continued immediate use of a Car, but shall not otherwise make any repairs, alterations, improvements or additions to the Cars without BRAE's prior written consent. If LESSEE makes an alteration, improvement or addition to any Car without BRAE's prior written consent, LESSEE shall be liable to BRAE for any revenues lost due to such alteration and any costs reasonably incurred by BRAE to restore any Car to its condition prior to such LESSEE change. 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 Cars while on LESSEE's railroad tracks in the same manner that LESSEE is responsible under the Interchange Rules for freight cars not owned by LESSEE on LESSEE's railroad tracks.

LESSEE shall protect against the consequences of an event of loss involving the Cars while on LESSEE's railroad tracks by obtaining insurance or maintaining a self-insurance program satisfactory to BRAE. In the event LESSEE elects to carry insurance, LESSEE shall furnish to BRAE concurrently with the execution hereof, and thereafter at intervals of not more than 12 calendar months, certificates of insurance evidencing bodily injury and property damage insurance signed by an independent insurance broker with 30 days written notice of cancellation to BRAE. All insurance shall be taken out in the name of LESSEE and BRAE (or its assignee) as their interests may appear.

D. BRAE agrees to reimburse LESSEE for all taxes, assessments and other governmental charges of whatsoever kind or character paid by LESSEE relating to each Car and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to LESSEE or which may be accrued, levied, assessed or imposed during the term of this Agreement, except taxes on income imposed on LESSEE and sales or use taxes imposed on the car hire revenues which are retained by LESSEE. BRAE shall forward to LESSEE all sales and use tax payments received by it on behalf of LESSEE. BRAE and LESSEE shall each pay the sales or use taxes imposed on the car hire revenues earned by them respectively under the terms of this Agreement. LESSEE will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars.

6. **Lease Rental**

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

(i) BRAE shall receive all payments earned by LESSEE from other railroad companies (excluding LESSEE's affiliate, DeQueen and Eastern Railroad Company) for their use or handling of the Cars, including but not limited to mileage charges and hourly car hire payments (all of which payments made to LESSEE are hereinafter collectively referred to as "Payments"). BRAE shall retain 100% of all mileage payments received from other railroads for their use and handling of the Cars, and shall remit to LESSEE an amount equal to 50% of all hourly per diem payments earned by the Cars above 75% of utilization. LESSEE hereby acknowledges that it shall have no right with respect to any hourly per diem earned by the Cars up to the 75% utilization level, and that BRAE shall be entitled to all such hourly per diem and mileage payments. All sums due LESSEE hereunder from BRAE shall be paid monthly in arrears within 60 days after the end of the calendar month in which such sums are earned and collected.

(ii) In addition, BRAE will receive, as additional rental, all monies earned by the Cars prior to their Initial Loading.

B. In the event damage beyond repair or destruction of a Car has been reported in accordance with the Interchange Rules and the appropriate amount due as a result thereof is received by BRAE, the damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that car hire payments ceased. Any amounts received by LESSEE as a result of such damage will be promptly paid over to BRAE. BRAE reserves the right, upon 30 days written notice, to replace any or all of the Cars, including destroyed Cars, with new or used cars of the same general class and type. Replacement cars will be delivered to LESSEE before any Car is removed from LESSEE's railroad line.

C. If at any time during a calendar quarter, it is mathematically certain that the Utilization in such calendar quarter cannot be equal to or greater than 75%, BRAE may, at its option and upon not less than ten (10) days prior written notice to LESSEE, terminate this Agreement as to such Cars as BRAE shall determine; 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 calendar quarter and the amount BRAE would have received had Utilization equal to 75% been achieved; and, provided, further, that BRAE may only terminate that number of Cars such that Utilization of 75% would have been achieved by the remaining Cars. For the purpose of determining Utilization, "Car Hour" shall mean one hour during which one Car is on lease hereunder, commencing on the Initial Loading of such Car. For the purpose of this Agreement, "Utilization" shall mean with respect to any period a fraction the numerator of which is (x) the aggregate number of Car Hours for which Payments are earned by the LESSEE during such period, and the denominator of which is (y) the aggregate number of Car Hours during such period, excluding such number of Car Hours, or portion thereof, that any Car is bad ordered. For purposes of this Section 6C, a "bad ordered" Car shall be defined as any Car, on or off LESSEE's railroad line, that is unavailable for loading due to maintenance or repair requiring more than twenty (20) man hours of labor.

D. If the Interstate Commerce Commission ("ICC") or any successor governmental agency, or any other regulatory body or any court shall at any time have in effect any order, the effect of which would (1) cause the Cars to incur storage charges while on other railroads, or empty mileage charges while on other railroads or (2) reduce the amount of revenue which the Cars are able to earn as of the date of this Agreement, then LESSEE may negotiate with other railroads to obtain relief from such order and if such relief does not fully compensate BRAE for all losses or charges incurred by BRAE as a result of such order, BRAE may terminate this Agreement on thirty (30) days written notice.

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 Cars in accordance with the terms of this Agreement and in the manner and to the extent cars are customarily used in the railroad freight business, provided that LESSEE retain on its railroad tracks no more Cars than are necessary to fulfill its immediate requirements to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks. However, LESSEE's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by BRAE in connection with the acquisition of some or all of the Cars, i.e., upon notice to LESSEE from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be paid directly to such party and/or that Cars immediately be returned to such party.

B. LESSEE agrees that to the extent it has physical possession and can control use of the Cars, the Cars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations, and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either BRAE or LESSEE 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.

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

8. **Default**

A. The occurrence of any of the following events shall be an Event of Default:

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

(ii) The breach by LESSEE of any other term, covenant, or condition of this Agreement, which is not cured within ten (10) days after written notice.

(iii) Any act of insolvency or bankruptcy by LESSEE, or the filing by LESSEE 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 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, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of filing or appointment.

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

B. Upon the occurrence of any event of default, BRAE may, at its option, terminate this Agreement (which termination shall not release LESSEE from any obligation to pay any and all rent or other sums that may then be due or accrued to such date to BRAE or from the obligation to perform any duty or discharge any other liability occurring prior thereto) and may:

(i) Proceed by any lawful means to enforce performance by LESSEE of such obligations or to recover damages for a breach thereof (and LESSEE agrees to bear BRAE's costs and expenses, including reasonable attorneys' fees) in securing such enforcement, or

(ii) By notice in writing to LESSEE, terminate LESSEE's right of possession and use of the Cars whereupon all right and interest of LESSEE in the Cars shall terminate, and thereupon BRAE may enter upon any premises where the Cars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of LESSEE.

9. **Termination**

At the expiration or earlier termination of this Agreement as to any Car(s), LESSEE will surrender possession of such Car(s) located on LESSEE's railroad tracks to BRAE free of refuse, subject to LESSEE's obligations pursuant to Section 5 of this Agreement, by delivering the same to BRAE at such LESSEE interchange point as BRAE shall designate. LESSEE agrees not to load the Cars after expiration or earlier termination of this Agreement without BRAE's prior written approval in accordance with Section 10 below.

LESSEE shall be responsible for removing LESSEE's railroad markings and stenciling new markings as designated by BRAE as follows: (i) in the event a Car is on LESSEE's railroad tracks, LESSEE will perform such stenciling within thirty (30) days of expiration

or earlier termination; (ii) in the event a Car is not on LESSEE's railroad tracks, BRAE may choose a contractor to perform such stenciling and LESSEE shall reimburse BRAE for the cost thereof subject, however, to a maximum reimbursement equal to LESSEE's then current charge to a third party for performing comparable stenciling services. LESSEE shall provide up to sixty (60) days free storage on its railroad tracks for BRAE or the subsequent lessee of any terminated Car. If any Car is terminated pursuant to Section 8 hereof prior to the end of its Lease Term, LESSEE shall be liable to BRAE in addition for all costs and expenses incurred by BRAE to move such Car to a location designated by BRAE.

10. **Return of Cars**

LESSEE agrees that BRAE shall have the sole right to determine whether or not the Cars shall be loaded after expiration or earlier termination or redelivered empty to BRAE on LESSEE's track; provided, however, LESSEE shall have no obligation to load the Cars unless it has a need to use the Cars.

11. **Indemnities**

BRAE will defend, indemnify and hold LESSEE harmless from and against (1) any and all claims based upon loss or damage to the Cars, normal wear and tear excepted, unless occurring while LESSEE has physical possession of the Cars and (2) any other type of claim, cause of action, damage, liability, cost or expense which may be asserted against LESSEE with respect to the Cars (other than loss or physical damage to the Cars as provided in (1) above) unless occurring through the fault of LESSEE.

12. **Representations, Warranties and Covenants**

LESSEE represents, warrants and covenants that:

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

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

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

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

13. **Inspection**

BRAE shall at any time during normal business hours have the right to enter the premises of LESSEE where the Cars may be located for the purpose of inspecting and examining the Cars to insure LESSEE's compliance with its obligations hereunder. LESSEE agrees to use its best efforts to arrange for such inspections by BRAE of any Cars which may be located on property not owned by LESSEE. LESSEE shall immediately notify BRAE of any accident connected with the malfunctioning or operation of the Cars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses and other information pertinent to LESSEE's investigation of the accident. LESSEE shall also notify BRAE in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. LESSEE shall furnish to BRAE promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.

14. **Miscellaneous**

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that LESSEE may not, without the prior written consent of BRAE, assign this Agreement or any of its rights hereunder or sublease the Cars to any party, and any purported assignment or sublease in violation hereof shall be void; provided, however, that LESSEE shall not be prohibited from placing Cars in assigned service at another majority-owned common carrier railroad subsidiary of Weyerhaeuser Company. LESSEE hereby agrees that any such assignment may be with respect to all or part of the Cars to be leased hereunder and may relate to all or part of the Cars on any Schedule hereto.

LESSEE also agrees to acknowledge, upon receipt, any security assignment of this Agreement by BRAE to an owner or secured party under any financing agreement or lease entered into by BRAE in connection with the acquisition of all or part of the Cars leased hereunder. LESSEE hereby agrees that any such assignment may be with respect to all or part of the Cars on any Schedule hereto. 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.

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

BRAE is expressly authorized to insert the appropriate railcar reporting markings and Car description on the Schedule(s) at such time as notice is delivered to BRAE by LESSEE as to the correct reporting marks and physical description to be utilized.

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

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

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

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

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

BRAE TRANSPORTATION, INC.

By Donald B. Littlefield

Printed Name Donald B. Littlefield

Title President - Rail Division

Date 11/30/87

TEXAS, OKLAHOMA & EASTERN RAILROAD COMPANY

By L E Gilliam

Printed Name L E Gilliam

Title V P & Gen Mgr

Date 11/18/87

with pen & ink changes on pg 2 & pg 10

LEG

EQUIPMENT SCHEDULE NO. 1

BRAE TRANSPORTATION, INC. ("BRAE") hereby leases the following railcars to Texas, Oklahoma & Eastern Railroad Company ("LESSEE"), pursuant to that certain Lease Agreement dated as of October 22, 1987 (the "Lease").

Number of Cars	Description	Designation	Car Numbers
75	52'6", 70 ton, Plate C, 12' Single Sliding Door Boxcars NOT TO EXCEED 5359 CU BIC FT	XP	TOE#___ - TOE#___ [specific numbers to follow]

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

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

BRAE TRANSPORTATION, INC.

By Donald B Littlefield

Printed Name Donald B. Littlefield

Title President - Rail Division

Date 11/30/87

TEXAS, OKLAHOMA & EASTERN RAILROAD COMPANY

By L E Gilliam

Printed Name L E Gilliam

Title V P & Gen Mgr

Date 11/18/87

with pen & ink changes on pg 2 & pg 10

KBG

STATE OF Arkansas)
) SS
COUNTY OF Sevier)

On this 18th day of November, 19 87, before me personally appeared L. E. Gilliam, to me personally known, who being by me duly sworn says that such person is Vice President & Gen Mgr. of Texas, Oklahoma & Eastern Railroad Company, and that the foregoing Lease 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.

Lenerma Jeanene Deen (seal)
Notary Public

STATE OF CALIFORNIA)
) SS
CITY AND COUNTY OF SAN FRANCISCO)

On this 30th day of November, 19 87, 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 Lease 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.

Leann Lloyd (seal)
Notary Public

OFFICIAL SEAL
LEANN LLOYD
NOTARY PUBLIC-CALIFORNIA
City and County of SAN FRANCISCO
My Commission Expires Aug. 9, 1991