7749-A

DEC 2 1974 2 05 PM

INTERSTATE COMMERCE COMMISSION

Assignment of Mortgage and Assignment of Leases

This Assignment of Mortgage and Assignment of Leases, dated as of December 18, 1974, is executed by North American Car Corporation, a Delaware corporation (the "Company") in favor of The First National Bank of Chicago, Bank of America National Trust and Savings Association, Continental Illinois National Bank and Trust Company of Chicago, Chase Manhattan Bank, N. A., Crocker National Bank, and Wells Fargo Bank, N.A. (herein collectively called the "Banks", and individually a "Bank"), and The First National Bank of Chicago, as agent (the "Agent") for the Banks under this Assignment and under that certain Loan Agreement (the "Loan Agreement") dated as of December 18, 1974, among the Banks, the Agent, and the Company, in order to induce the Banks to extend credit to the Company on the terms and subject to the conditions set forth in the Loan Agreement.

THEREFORE, in consideration of the premises, the Company agrees as follows:

§ 1. *Rights Assigned.* In order to secure the prompt payment of the principal and interest on the Notes (as defined in the Loan Agreement), whether now or hereafter outstanding, and of all other indebtedness of the Company payable or to be payable under this Assignment, the Loan Agreement and any other document executed pursuant to the Loan Agreement (hereinafter collectively called the "Indebtedness") and the faithful performance and observance by the Company of all of its agreements and covenants contained in each of the aforesaid documents, the Company does hereby convey, pledge, sell, mortgage, assign, transfer, set over and grant a security interest unto the Banks in and to all right, title, and interest (the "Rights") of the Company in and to the Mortgage filed under Section 20c of the Interstate Commerce Act on as Document , the Assignment of Leases filed under Section 20c of the Interstate Commerce Act on as Document , and all Supplements thereto from time to time (the "Subsidiary Collateral Documents") which are delivered to the Agent herewith, including, but not limited to, (i) the right to receive all moneys due and to become due under the Subsidiary Collateral Documents, (ii) all claims for damages arising out of the breach thereof, (iii) the right to terminate any assigned lease, to perform thereunder and to compel performance of the terms thereof, (iv) the right to receive all moneys and claims for moneys due and to become due to the Company under the terms of the Subsidiary Collateral Documents, (v) all claims for damages and all insurance and other proceeds in respect of the actual or constructive loss of, or the requisition (whether of title or use), condemnation, sequestration, seizure, forfeiture or other taking of, the equipment and (vi) the right to take possession of the equipment.

§ 2. *Performance of Obligations Under Leases.* It is expressly agreed that the Agent shall have no obligation or liability under the Leases by reason of, or arising out of, this Assignment and shall not be obligated to perform any of the obligations of the Company or the Subsidiary under any Lease or to make any payment or to make any inquiry of the sufficiency of any payment received by it or to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder.

§ 3. *Documents for Perfection of Security Interest.* The Company agrees that at any time and from time to time, upon the written request of the Agent, the Company will promptly and duly execute and deliver any and all such further instruments and documents as is necessary to obtain the full benefits of this Assignment and of the rights and powers herein granted, including without limitation the execution and filing with the Interstate Commerce Commission of the Supplemental Assignments and the execution and delivery of such Uniform Commercial Code financing and continuation statements, and the filing thereof in such jurisdictions as is necessary to perfect the Agent's interest. To the extent permitted by applicable law, the Company hereby authorizes the Agent to execute and file any such financing or continuation statements without necessity of the signature of the Company. The Company will cause the following language to be stamped on all executed Leases in their possession: "This Lease has been assigned by the Company as collateral security for indebtedness of the Company."

§ 4. *Notices.* All notices hereunder shall be given in writing and, if relating to the Company to 222 South Riverside Plaza, Chicago, Illinois, Attention: Vice President—Finance and if to the Agent, at One First National Plaza, Chicago, Illinois 60670 Attn: Division G, and if to the Banks, to their addresses as set forth on the signature page of the Loan Agreement.

§ 5. *Governing Law.* This Assignment shall be deemed to be a contract under the laws of the State of Illinois, and for all purposes shall be construed in accordance with the laws of said State.

§ 6. *Successors and Assigns.* This Assignment shall be binding upon and inure to the benefit of the Company and the Banks, and their respective successors and assigns, except that the Company may not assign or transfer their rights hereunder without the prior written consent of the Agent.

§ 7. *Cumulative Remedies.* Each right, power and remedy herein specifically granted to the Agent or the Banks or otherwise available shall be cumulative, and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity, or otherwise. Each right, power and remedy, whether specifically granted herein or otherwise existing, may be exercised, at any time and from time to time by the Agent as authorized by § 15 of the Loan Agreement. The exercise or commencement of exercise of any right, power or remedy shall not be construed as a waiver of the right to exercise, at the same time or thereafter, the same or any other right, power or remedy. No delay or omission by the Agent in exercising any such right or power, or in pursuing any such remedy, shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Company or an acquiescence therein. No waiver by the Agent or any breach or default of or by the Company under the Assignment shall be deemed to be a waiver of any other or similar, previous, or subsequent, breach or default.

§ 8. *Indemnification.* The Company hereby agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Agent and the Banks, and their respective successors assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal fees and expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against the Agent and the Banks or any of the Banks or their respective successors, assigns, agents and servants, in any way relating to or arising out of the Assignment, or the manufacture, purchase, acceptance, rejection, ownership, delivery lease, possession, use, operation, condition, sale, return or other disposition of any equipment subject to the Leases (including, without limitation, latent and other defects, whether or not discoverable by the Agent, the Banks or the Company and any claim for patent, trademark or copyright infringement).

§ 9. *Appointment of Agent as Attorney.* If any Event of Default (as defined in § 12) shall occur and be continuing, then the Company constitutes the Agent and its successors and assigns, their true and lawful attorney, irrevocably and with full power of substitution, in their name or otherwise, to demand and sue for enforcement of the Mortgage, and to demand, receive, compromise, sue for, and give acquittance for, any and all moneys and claims for moneys due and to become due under the Leases assigned hereby or otherwise arising out of the Assignment, to endorse any checks or other instruments or orders in connection therewith, and to file any claims or to take any actions or institute any proceedings with respect thereto which to the Agent or its successors or assigns may seem necessary or advisable. Anything herein contained to the contrary notwithstanding, neither the Agent nor its nominee or assignee shall have any obligation or liability by reason of or arising out of the Assignment to make any inquiry as to the nature or sufficiency of, to present or file any claim with respect to, or to take any action to collect or enforce the payment of, any amounts to which it may be entitled at any time or times by virtue of the Assignment.

§ 10. *Waiver of Benefit of Certain Laws.* To the fullest extent that it may lawfully so agree, the Company shall not at any time insist upon, claim, plead, or take any benefit or advantage of any appraisement, valuation, stay, extension, moratorium, redemption, or any similar law now or hereafter in force in order to prevent, delay, or hinder the enforcement of the Assignment or the absolute sale of any part or all of the Equipment or the Leases or the possession thereof by any purchaser at any sale thereof, and the Company, for itself and all who may claim through it, as far as it or they now or hereafter lawfully may do so, hereby waives the benefit of all such laws.

§ 11. *Purchase of Leases by Banks.* At any public sale pursuant to § 13 hereof, the Agent or its agent may to the extent permitted by applicable law bid for and purchase the Equipment or the Leases offered for sale for account of the Banks, and, upon compliance in full with the terms of such sale, may hold, retain, and dispose of such property without further accountability therefor to the Company or any other party.

§ 12. *Defaults.* The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) The Company shall commit an Event of Default under Section 14 of the Loan Agreement or

(b) The Company shall fail to perform any agreement under this Assignment within 30 days after notice from any Bank; or

(c) Any representation made to any Bank in connection with this Assignment shall be materially false.

§ 13. *Remedies.* (a) Upon the occurrence and during the continuance of any Event of Default the Agent may to the extent and in the manner authorized by § 15 of the Loan Agreement exercise all the rights and remedies granted to the Company in the Subsidiary Collateral Documents.

(b) At any time before or after the occurrence of an Event of Default, the Agent may demand that the Company take possession of Leases from the Subsidiary and the Company shall forthwith upon demand cause Leases or any part thereof designated by the Agent to be assembled and made available or delivered to the Agent at any place reasonably designated by the Agent.

(c) In the event that any mandatory requirement of applicable law shall obligate the Agent to give prior notice to the Company of any of the foregoing acts, the Company hereby covenants and agrees that a notice of such act sent to North American Car Corporation, 222 South Riverside Plaza, Chicago, Illinois, Attention: Vice President—Finance by certified U.S. mail, return receipt requested, at least five (or such longer period as may be required by applicable law) business days before the date of any such act shall be deemed to be reasonable notice of such act and, specifically, reasonable notification of the time and place of any public sale hereunder and reasonable notification of the time after which any private sale or other intended disposition to be made hereunder is to be made.

(d) The proceeds from the sale of the Equipment and Leases pursuant to any of the provisions of this § 13 (or otherwise received hereunder by the Agent) shall be applied as provided in the Loan Agreement.

(e) No sale or other disposition of all or any part of any unit of Equipment by the Agent pursuant to this § 13 shall be deemed to relieve the Company of its liability for any deficiency in any part of its obligations hereunder.

§ 19 *Releases.* Upon request the Company, the Agent will release the security interest of the Banks hereunder in any Lease if the security interest of the Banks in the Equipment subject to the Lease has been released pursuant to the terms and conditions of the Loan Agreement.

§ 20 *Disclaimer of Agent.* The Agent shall not be responsible to the Banks for the validity or effectiveness of any Mortgage or any Equipment or of any Leases given to or held by it as Agent hereunder, or for the validity or effectiveness of any assignment, mortgage, pledge, security agreement or financing statement made to and accepted by it hereunder, nor for the filing, recording, refiling, continuing or re-recording of any thereof, nor shall it be liable to the Banks because of any invalidity of the security provisions of this Assignment or any other agreement, whether arising from statute, law or decision of any court, or by reason of any action or omission to act on its part not the result of gross negligence or willful misconduct.

IN WITNESS WHEREOF, the Company has caused this Assignment to be executed by its officers thereunto duly authorized as of the day and year first above written.

[CORPORATE SEAL]
ATTEST John E Lynn
Secretary

NORTH AMERICAN CAR CORPORATION,
a Delaware corporation
By [signature]
Title V.P. Finance

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 23rd day of December, 1974 before me personally appeared M. A. Lynch, to me personally known, who being be me duly sworn says that he is the Vice President of North American Car Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Doris M Hilebrandt
Notary Public

[SEAL]

My commission expires 5-6-78