

DEC 18 1974

EQUIPMENT MORTGAGE

INTERSTATE COMMERCE COMMISSION

THIS EQUIPMENT MORTGAGE AGREEMENT, dated as of December 18, 1974, is executed by North American Finance Leasing, Inc. (the "Company"), and NORTH AMERICAN CAR COMPANY, a Delaware corporation (the "Secured Party") to induce the Secured Party to extend credit to the Company subject to the terms and conditions set forth therein.

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

SECTION 1. *Definition of Equipment Mortgage.* In order to secure prompt payment of the principal and interest of the notes to be issued by the Company to the Secured Party in the form of Attachment II hereto (the "Notes"), whether now or hereafter outstanding, and faithful performance and observance by the Company of all its agreements and covenants contained in this Equipment Mortgage, the Notes and all other documents executed in connection therewith (herein collectively called the "Indebtedness"), the Company does hereby pledge, mortgage, and grant a security interest unto the Secured Party in and to the following:

(a) Any and all railroad cars in which the Secured Party is granted a security interest pursuant to a Supplement to the Mortgage in the form of Attachment I hereto describing all property in which the Secured Party is granted a security interest (all such property being hereinafter called the "Equipment");

(b) All proceeds (including, without limitation, insurance and indemnity payments) from the sale or loss or other dispositions of the Equipment;

(c) All substitutions, replacements, modifications, and accessions to the Equipment; and

(d) All rights, claims, causes of action, if any, which the Company may have against any manufacturer of the Equipment, or against any lessee or sublessee of the Company as lessor, and the proceeds of such rights, claims and causes of action.

All such rights, claims, causes of action and proceeds together with the Equipment hereinafter sometimes collectively called "Collateral."

The Secured Party shall and hereby does retain full security title to and property in the Equipment. Whenever reference herein is made to the title of the Secured Party to the Equipment such reference shall be deemed to mean the security interest of the Secured Party under this Equipment Mortgage.

When and only when the Indebtedness has been paid in full, and all the Company's obligations herein contained shall have been performed, absolute right to possession of, title to and property in the Equipment shall pass to and vest in the Company.

SECTION 2. *Representations and Warranties.* The Company represents and warrants:

(a) That it is the owner of all Equipment listed in any Supplement to the Mortgage, that there will be no encumbrances or liens of any kind or character against any of said Equipment and that it has good right and lawful authority to transfer, convey, assign, and mortgage the same.

(b) That all Equipment which it identifies as New Equipment is not more than 18 months old at the time that it is subjected to the Mortgage and that all Equipment which it identifies as Used Equipment is not more than 6 years old at the time it is subjected to the Mortgage.

(c) The Company will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Secured Party or result in a lien upon any part of the Equipment, *provided, however*, that the Company shall be under no obligation to pay any impositions where the nonpayment thereof does not, in the opinion of the Secured Party, adversely affect the title, lien property or rights of the Secured Party in or to the Equipment or otherwise under this Equipment Mortgage. If any impositions for which the Company is liable as aforesaid shall have been charged or levied against the Secured Party directly and paid by the Secured Party, the Company shall reimburse the Secured Party upon presentation of an invoice therefor, and any amounts so paid by the Secured Party shall be secured by and under this Equipment Mortgage.

SECTION 3. *Maintenance and Repair; Casualty Occurrences; Release of Equipment.* The Company agrees that, at its own cost and expense, it will maintain and keep all the Equipment in good order and repair.

In the event of the loss, for any reason, damage, theft or destruction of any of the Equipment or of the obsolescence of any of the Equipment (herein a "Casualty Occurrence") or in the event that the Company requests a release of any such Equipment for the purpose of selling such Equipment to a third party the Company shall pay to the Secured Party an amount equal to the Collateral Value (as defined in the Loan Agreement hereinafter defined) of such Equipment for application against the Notes, and, upon such payment and upon the written request of the Company, the Agent shall release such Equipment from the lien of the Equipment Mortgage.

SECTION 4. *Reports and Inspections.* The Company shall cause to be furnished to the Secured Party within 45 days after the end of each quarter an accurate statement setting forth the amount and description of all Items of Equipment that have suffered a Casualty Occurrence during such quarter. The Company shall provide such other information regarding the condition and state of repair of the Equipment as the Secured Party may reasonably request. On or before March 31 in each year, the Company shall provide an opinion of counsel acceptable to Secured Party to the effect that the Equipment Mortgage constitutes a first and prior lien on the Collateral while such Collateral is located in the United States of America. The Secured Party shall have the right to inspect the Equipment and the records with respect thereto at such reasonable times as the Secured Party may request; *provided, however*, that the Company shall not be required to assemble the Collateral for such inspection unless there exists an Event of Default hereunder.

SECTION 5. *Marking of Equipment.* The Company will keep and maintain, plainly, distinctly, permanently and conspicuously marked on such item of Equipment suitable for marking, in letters not less than one inch in height:

TITLE TO THIS CAR IS VESTED IN A TRUSTEE UNDER THE TERMS OF AN EQUIPMENT TRUST AGREEMENT RECORDED UNDER SECTION 20(c) OF THE INTERSTATE COMMERCE ACT.

or other appropriate words stenciled on the item of Equipment with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Secured Party's security title to and property in the Equipment and its rights hereunder.

Once the Equipment is so marked the Company will not permit the identifying number of any item of Equipment to be changed.

SECTION 6. *Compliance with Laws and Rules.* During the term of this Equipment Mortgage, the Company will comply, and will cause every lessee or user of the Equipment to comply, with all rules, regulations, orders and laws pertaining to the use, operation, or maintenance of the Equipment existing in the jurisdictions in which its or such lessees' operations involving the Equipment may extend; *provided, however*, that the Company, in good faith, may contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Secured Party adversely affect the property or rights of the Secured Party under this Equipment Mortgage.

SECTION 7. *Possession and Use.* So long as an Event of Default specified in Article 11 hereof shall not have occurred and be continuing, the Company shall be entitled to the possession and use of the Equipment, but only subject to all of the terms and conditions of this Equipment Mortgage. The Company may also lease the Equipment to any railroad company or other corporation or entity, *provided, however*, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Secured Party under this Equipment Mortgage and (ii) the Company shall not lease, assign or permit any items of Equipment to regular service in any area where the lien of this Mortgage is not perfected as to such Equipment, except that Equipment constituting not more than 20% of the Collateral Value of all Equipment securing the performance of a certain Loan Agreement, dated as of December 18, 1974 among North American Car Corporation, The First National Bank of Chicago, Continental Illinois National Bank and Trust Company of Chicago, Crocker National Bank, Bank of America National Trust and Savings Association, Chase Manhattan Bank, N.A., National Bank of North America, Wells Fargo Bank, N.A., and The First National Bank of Chicago, as Agent. (the "Loan Agreement") may be used in such areas.

SECTION 8. *Indemnities and Warranties.* The Company agrees to indemnify, protect and hold harmless the Secured Party from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, penalties and interest, arising out of or as the result of the entering into or the performance of this Equipment Mortgage, the retention by the Secured Party of security title to the Equipment, the use, operation, condition, purchase, delivery, rejection, storage or return of any of the items of Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the items of Equipment resulting in damage to property or injury or death to any person during the period when security title thereto and the Secured Party's lien remain in the Secured Party or the transfer of title to the Equipment by the Secured Party pursuant to any of the provisions of this Equipment Mortgage. This covenant of indemnity shall continue in full force and effect notwithstanding the full satisfaction of the Indebtedness and the release and the conveyance of security title to the Equipment to the Company, or the termination of this Equipment Mortgage in any manner whatsoever. The Secured Party shall give notice to the Company of claim arising hereunder and the Company shall have the right to take up and defend any such claim.

The Company will bear the responsibility for and risk of and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any item of Equipment or all the Equipment.

The Company agrees to indemnify, protect and hold harmless the Secured Party from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, its assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. Such covenants of indemnity shall continue in full force and effect notwithstanding the full satisfaction of the Indebtedness and the release and the conveyance of security title to the Equipment to the Company, or the termination of this Equipment Mortgage in any manner whatsoever.

SECTION 9. *No Set-off.* The rights of the Secured Party to payment of the Indebtedness as well as any other rights hereunder shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of breach of any warranty with respect to the Equipment, any other indebtedness or liability at any time owing to the Company or any insolvency, bankruptcy, reorganization or similar proceedings by or against the Company. The Company hereby waives, to the extent permitted by applicable law, any and all rights which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Equipment Mortgage, except in accordance with the express terms hereof.

SECTION 10. *Defaults.* The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- (a) The Company shall fail to pay the Notes when due, or
- (b) The Company shall fail to perform any agreement under this Equipment Mortgage within 30 days after notice from any Secured Party; or
- (c) Any representation made to any Secured Party in connection with this Equipment Mortgage shall be materially false; or
- (d) There shall exist and be continuing any Event of Default as defined in the Loan Agreement.

SECTION 11. *Remedies.* In case the Secured Party shall demand possession of the Equipment pursuant to this Equipment Mortgage, the Secured Party may designate some premises for the delivery of the Equipment to the Secured Party, and the Company shall, at its own expense, forthwith cause the Equipment to be detached, assembled and shall arrange for such Equipment to be moved to such point and shall there deliver the Equipment to the Secured Party.

This Agreement to deliver the Equipment as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court having jurisdiction in the premises, the Secured Party shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Secured Party or its agents for damages of whatever nature in connection with any retaking of any item of Equipment in any manner.

At any time during the continuance of an Event of Default, the Secured Party, with or without retaking possession thereof, at its election and upon reasonable notice to the Company, and other persons to whom the law may require notice of the time and place, may, sell the Equipment, or any part thereof, free from any and all claims of the Company, or any other party claiming from, through or under the Company at law or in equity, at public or private sale and with or without advertisement as the Secured Party may determine.

Any sale hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Secured Party may specify (unless the Secured Party shall specify a different place or places, in which case the sale shall be held at such place or places as the Secured Party may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Secured Party may determine. The Company shall be given written notice of such sale not less than ten days prior thereto by telegram or registered mail addressed as provided in Section 18 hereof. If such sale shall be a private sale, it shall be subject to the rights of the Company to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intended purchaser or a better price. The Secured Party may bid for and become the purchaser of the Equipment, or any of it, so offered for sale. In the event that any Secured Party shall be the purchaser thereof, it shall not be accountable to the Company upon a subsequent disposition of the Equipment.

If, as provided in this Section 11, the Secured Party shall exercise any of the powers conferred by this Equipment Mortgage, all payments made by the Company to the Secured Party hereunder and the proceeds of any judgment collected from the Company by the Secured Party hereunder, and the proceeds of every sale or lease by the Secured Party hereunder of any of the Collateral, together with any other sums which may then be held by the Secured Party under any of the provisions hereof, shall be applied to the payment, in the following order of priority, (a) of all proper charges, expenses or advances made or incurred by the Secured Party in accordance with the provisions of this Equipment Mortgage and (b) of the Indebtedness.

Each and every power and remedy hereby specifically given to the Secured Party shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time simultaneously and as often and in such order as may be deemed expedient by the Secured Party. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Secured Party in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Company shall not otherwise alter or affect the Secured Party's rights or the Company's obligations hereunder. The Secured Party's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Company's obligations or the Secured Party's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Secured Party under the remedies herein provided, there shall remain any amount due to it under the provisions of this Equipment Mortgage or the Notes, the Company shall pay the amount of such deficiency to the Secured Party upon demand, and, if the Company shall fail to pay such deficiency, the Secured Party may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Secured Party, there shall remain a surplus in the possession of the Secured Party, such surplus shall be paid to the Company.

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Secured Party in enforcing its remedies under the terms of this Equipment Mortgage or preparing to enforce its remedies after a default hereunder. In the event that the Secured Party shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Secured Party may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Section 11 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

SECTION 12. *Applicable State Laws.* Any provision of this Equipment Mortgage prohibited by any applicable law or any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Equipment Mortgage. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Company to the full extent permitted by law, it being the intention of the parties hereto that this Equipment Mortgage shall be deemed to be a Chattel Mortgage and enforced as such.

Except as otherwise provided in this Equipment Mortgage, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more items of Equipment thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Secured Party's rights under this Equipment Mortgage and any and all rights of redemption.

SECTION 13. *Recording.* The Company will cause this Equipment Mortgage, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act, and the Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Secured Party for the purpose of proper protection, to the satisfaction of counsel for the Secured Party, of its title to the Equipment and its rights under this Equipment Mortgage or for the purpose of carrying out the intention of this Equipment Mortgage; and the Company will promptly furnish to the Secured Party certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Secured Party.

SECTION 14. *Satisfaction of Mortgage and Termination of Mortgage.* When the Notes have been paid in full and all obligations of the Company hereunder and under the Notes have been fulfilled, the Secured Party shall release the lien of this Equipment Mortgage with respect to the Collateral by an appropriate document in recordable form and thereupon this Equipment Mortgage shall be satisfied and void.

SECTION 15. *Payment of Expenses.* The Company will pay for all the costs and expenses incident to this Equipment Mortgage and all reasonable costs and expenses in connection with the perfection of the Secured Party's lien upon the Equipment.

SECTION 16. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Equipment Mortgage.

No variation or modification of this Equipment Mortgage and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Secured Party and the Company.

SECTION 17. *Notices.* Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

- | | |
|------------------------------|--|
| (a) To the Secured Party at: | North American Car Corporation
222 South Riverside Plaza
Chicago, Illinois 60606
Attention: V. P.—Finance |
| (b) To the Company at: | 222 South Riverside Plaza
Chicago, Illinois 60606
Attention: V. P.—Finance |

SECTION 18. *Law Governing.* The terms of this Equipment Mortgage and all rights and obligations hereunder shall be governed by the laws of Illinois; *provided, however*, that the parties shall be entitled to all rights conferred by this filing, recording or deposit hereof in the appropriate office(s) pursuant to Section 20c of the Interstate Commerce Act.

SECTION 19. *Execution.* Although this Equipment Mortgage is dated as of December 18, 1974, for convenience the actual date or dates of execution hereby by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 22. *Successors and Assigns.* The benefits and obligations of the Parties hereto shall inure to their respective successors and assigns.

By *[Signature]*
Title *Vice President*
North American Finance Leasing, Inc

[CORPORATE SEAL]

NORTH AMERICAN CAR CORPORATION,
a Delaware corporation

ATTEST:

[Signature]
Sec.

By *[Signature]*
Title *Vice President*

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this *23rd* day of *December*, 1974, before me personally appeared *H. A. Lynch*, to me personally known, who being by me duly sworn says that he is the *Vice President* of *North American Finance Leasing, Inc*, 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.

[Signature]
Notary Public

[SEAL]

My commission expires *5-6-74*

STATE OF *Illinois* }
COUNTY OF *Cook* } ss.:

On this *23rd* day of *December*, 1974, before me personally appeared *H. A. Lynch*, to me personally known, who being by 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.

[Signature]
Notary Public

[SEAL]

My commission expires *5-6-78*

ATTACHMENT I
Supplement to the Mortgage and to the Assignment of Leases

(the "Company") does hereby pledge, mortgage, and grant a security interest unto North American Car Corporation, a Delaware Corporation (the "Secured Party") in and to the railroad cars described in the Schedule attached hereto.

The Company hereby assigns to the Secured Party all its right, title, and interest in, to and under the following Leases, pursuant to and subject to the terms and conditions of the Assignment of Leases referred to above:

<u>Date of Lease</u>	<u>Lessee</u>	<u>Equipment Leased</u>	<u>Term of Lease</u>	<u>Monthly Rental</u>
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The Company hereby certifies that it has complied with all the terms and conditions of said Assignment of Leases, and that all representations and warranties contained in said Assignment are true and correct as of the date hereof.

This Supplemental Mortgage and Assignment of Leases is issued pursuant to and is governed by the terms and provisions of that certain Equipment Mortgage and Assignment of Leases dated December 18, 1974 among the Company and the Secured Party and filed under §20(c) of the Interstate Commerce Act on _____, 1974 at _____ as Document Number _____.

[CORPORATE SEAL]

ATTEST

_____ By _____
 Title _____

STATE OF _____ }
 COUNTY OF _____ } ss.:

On this _____ day of _____, 197____, before me personally appeared _____, to me personally known, who being by me duly sworn says that he is the _____ of _____, 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.

 Notary Public

[SEAL]

My commission expires _____

ATTACHMENT II

NOTE

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On demand, for value received, the undersigned, _____ (herein called the "Company"), promises to pay to the order of North American Car Corporation (herein called the "Payee") the principal sum of _____ Dollars (\$ _____), payable in lawful money of the United States of America at the office of Payee in immediately available funds.

The Company shall pay interest (computed on a 365 or, when applicable, 366 day-year basis) on the unpaid principal amount of this Note from time to time outstanding from the date hereof, at a rate per annum equal to the Corporate Base Rate, plus $\frac{1}{4}$ of 1% per annum. Interest shall be payable quarterly in arrears at the office of the Payee in immediately available funds on the last day of each March, June, September, and December in each year after the date hereof commencing December 31, 1974, and at maturity. The Company shall pay interest on the unpaid principal amount hereof after maturity, whether by acceleration or otherwise until such amount is paid in full at a rate per annum equal to the Corporate Base Rate, plus 2% per annum. "Corporate Base Rate" as used herein shall mean the interest rate charged by The First National Bank of Chicago from time to time to its largest and most credit-worthy corporate borrowers for 90-day commercial loans. The interest rate under this Note shall change when and as said Corporate Base Rate changes.

If any payment of principal or interest on this Note shall become due and payable on a Saturday, Sunday or legal holiday such payment shall be made on the next succeeding business day and such extended time of the payment of principal shall be included in computing interest at the rate this Note bears in connection with such payment.

The Company expressly waives any presentment, demand, protest or notice in connection with this Note now, or hereafter, required by applicable law.

Payment of this Note is secured by, among other things, property in which the Payee and its successors and assigns have been given a security interest under the terms of the Mortgage and Assignment of Leases executed by the Company in favor of the Payee.

By _____

Title _____

Assignment of Leases

This Assignment of Leases dated as of December 18, 1974 (the "Assignment") is executed by *North American Finance Leasing, Inc.* (the "Company") in favor of North American Car Corporation, a Delaware Corporation (the "Secured Party"), in order to induce the Secured Party to extend credit to the Company.

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 in the form of Attachment II hereto (the "Notes"), whether now or hereafter outstanding, and of all other indebtedness of the Company payable or to be payable under this Assignment, the Notes, the Equipment Mortgage securing the Notes (the "Equipment Mortgage") and any other document executed in connection therewith (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 Secured Party in and to all right, title, and interest (the "Rights") of the Company in and to those certain leases (the "Leases") whether now or hereafter existing, covering any item of Equipment described in the Equipment Mortgage between the Company, as lessor, and other persons, as lessees (the "Lessees"), including, but not limited to, (i) the right to receive all moneys due and to become due under the Leases, (ii) all claims for damages arising out of the breach thereof, (iii) the right to terminate any 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, (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 subject always to the rights of the Lessees under the Leases and (vi) the right to take possession of the Equipment, subject to the rights of the Lessees.

§ 2. *Supplemental Assignment.* The Company shall execute and deliver to the Agent a Supplement to the Assignment of Leases (a "Supplemental Assignment") in the form of Attachment I hereto listing all Leases which are from time to time assigned to the Secured Party. The Company shall deliver such Supplemental Assignments to the Secured Party listing all Leases relating to Equipment.

§ 3. *Receipt of Rent.* The Company shall be permitted to receive and dispose of, for their own account and notwithstanding § 1 hereof all moneys due and to become due under the Leases and to exercise all rights and make all claims under the Leases for their own account and notwithstanding the foregoing paragraph, unless and until Event of Default (as defined in § 17 hereof) has occurred and is continuing in which event the Rights shall devolve upon the Secured Party and the Company shall take all actions necessary (including giving of notice to the Lessees) to cause all moneys due from the Lessees to be paid to the Secured Party at such address as the Secured Party may designate.

§ 4. *Performance of Borrowers Obligations Under Leases.* It is expressly agreed that anything herein contained to the contrary notwithstanding (i) the Company shall remain liable under each Lease to perform all the obligations assumed by it thereunder, (ii) after the occurrence and continuation of an Event of Default the obligations of the Company under any Lease may be performed by the Secured Party or its nominee or other assignee of the Secured Party without releasing the Company therefrom and (iii) the Secured Party 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 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.

§ 5. *Documents for Perfection of Security Interest.* The Company agrees that at any time and from time to time, upon the written request of the Secured Party, 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 Secured Party's interest. To the extent permitted by applicable law, the Company hereby authorizes the Secured Party 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."

§ 6. *Warranties and Representations.* The Company hereby represents and warrants that the Leases executed or to be executed by it are now or will be at the time of execution thereof enforceable in accordance with their terms subject to applicable bankruptcy, insolvency or other similar laws affecting creditors rights generally. The Company hereby further represents and warrants that the Company has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as this Assignment shall remain in effect, the whole or any part of the rights hereby assigned by it to anyone other than the Secured Party, its successors or assigns. The Company further represents and warrants that the following language will appear in each Lease:

It is understood that some of the cars furnished Lessee under this Agreement and Lessor's rights under this Agreement may, at the time of delivery to Lessee or at some future time during the term of this Agreement, be subject to the terms of a mortgage, deed of trust, equipment trust, pledge or assignment or similar security arrangement. Lessee agrees that the cars may be stenciled or marked to set forth the ownership of any such cars in the name of a mortgagee, trustee, pledgee, assignee or security holder and that this Agreement, and Lessee's rights hereunder, are and shall at all times be subject and subordinated to any and all rights of any mortgagee, trustee, pledgee or security holder. As to the cars subject hereto, this Agreement and the rentals hereunder may have been assigned and may in the future be assigned to the holder, if any, of the superior lien from time to time on each car as determined with reference to the filings under Section 20c of the Interstate Commerce Act; however, until notified to the contrary by any person reasonably proving to Lessee's satisfaction that he is the assignee of this Agreement or the rentals hereunder, Lessee is to pay all rentals to the order of North American.

The Company will use its best efforts to have the following language in all Leases executed after the date hereof. "Lessee hereby consents to and accepts such assignment. Lessee agrees that no claim or defense which Lessee may have against Lessor shall be asserted or enforced against of this Agreement."

§ 7. *Notices.* All notices hereunder shall be given in writing and, if relating to the Secured Party to 222 South Riverside Plaza, Chicago, Illinois, Attention: Vice President—Finance and if to the Company at the 222 South Riverside Plaza Chicago, Illinois, Attention: Vice President—Finance or at such other place as either party may designate to the other in writing.

§ 8. *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.

§ 9. *Successors and Assigns.* This Assignment shall be binding upon and inure to the benefit of the Company and Secured Party, 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 Secured Party.

§ 10. *Governing Law.* This Assignment is intended to comply with the laws of the jurisdiction wherein the Assignment is to be enforced, and any provisions hereof not so complying shall be deemed to be modified accordingly in the manner and to the extent which shall best effect the intentions and purposes reflected in and contemplated by the Assignment.

§ 11. *Cumulative Remedies.* Each right, power and remedy herein specifically granted to the Secured Party 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. 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 Secured Party 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 Secured Party of 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.

§ 12. *Indemnification.* The Company hereby agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Secured Party, 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 Secured Party or its 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 Secured Party or the Company and any claim for patent, trademark or copyright infringement).

§ 13. *Appointment of Agent as Attorney.* If any Event of Default (as defined in § 17) shall occur and be continuing, then the Company constitutes the Secured Party and its successors and assigns, their true and lawful attorney, irrevocably and with full power of substitution, in their name or otherwise, 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 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 Secured Party or its successors or assigns may seem necessary or advisable. Anything herein contained to the contrary notwithstanding, neither the Secured Party 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.

§ 14. *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 appraisal, 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 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.

§ 15. *Purchase of Leases by Secured Party.* At any public sale pursuant to § 17 hereof, the Secured Party or its agent may to the extent permitted by applicable law bid for and purchase the Leases offered for sale for account of the Secured Party, 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.

§ 16. *Settlement of Claims by Company.* The Company shall settle any and all claims with respect to the Leases and the Secured Party shall have no liability or obligation arising out of any of such claims.

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

- (a) The Company shall fail to pay the Notes when due; or
- (b) The Company shall fail to perform any agreement under this Assignment of Leases within 30 days after notice from the Secured Party; or
- (c) Any representation made to the Secured Party in connection with this Assignment shall be materially false; or

(d) There shall occur and be continuing any Event of Default as defined in the Loan Agreement as defined in the Equipment Mortgage.

§ 18. *Remedies.* (a) Upon the occurrence and during the continuance of any Event of Default the Secured Party may do any one or more of the following acts:

(i) exercise all the rights and remedies in foreclosure and otherwise granted to secured parties under the provisions of applicable laws;

(ii) institute legal proceedings for the specific performance of any covenant or agreement herein undertaken by the Company or for aid in the execution of any power or remedy herein granted;

(iii) institute legal proceedings to foreclose upon and against the security interest granted in and by this Assignment, to recover judgment for all amounts then due and owing as Indebtedness, and to collect the same out of any sale of or collections upon the Leases;

(iv) institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any Leases;

(v) notify Lessees under the Leases to make Lease payments directly to the Secured Party or as may otherwise be directed by the Secured Party;

(vi) personally, or by agents or attorneys, enter into and upon any premises wherein the Leases or any part thereof may then be situated, and take possession of all or any part thereof; demand, collect, and retain all hire, earnings and all other sums due and to become due in respect of the same from any party whomsoever, accounting only for net earnings arising from such use, if any, after charging against all receipts from the use of the same and from any subsequent sale thereof, by court proceedings or pursuant to subsection (vii) of this § 18(a) all costs and expenses of, and damages or losses by reason of, such use or sale; or

(vii) personally, or by agents or attorneys, enter upon and into any place wherein the same may then be located, and take possession of any part or all of the Leases, with or without process of law and without being responsible for loss or damage, and sell or dispose of all or any part of the same, free from any and all claims of the Company or of any other party claiming by, through, or under the Company at law, in equity, or otherwise, at one or more public or private sales, in such place or places, at such time or times, and upon such terms as the Secured Party may determine, in its sole and complete discretion and in light of its own best interests, with or without any previous demand on or notice to the Company or advertisement of any such sale or other disposal; and for the aforesaid purposes, all notice of sale, advertisement, and demand and any right or equity of redemption otherwise required by, or available to the Company under, applicable law are hereby waived by the Company to the fullest extent permitted by applicable law. The power of sale hereunder shall not be exhausted by one or more sales, and the Secured Party may from time to time adjourn any sale to be made pursuant to this § 18(a).

(b) If the Secured Party shall demand possession of Leases or any part thereof pursuant to this Assignment, the Company shall, subject to the terms hereof and at their own expense, forthwith cause Leases or any part thereof designated by the Secured Party to be assembled and made available or delivered to the Secured Party at any place reasonably designated by the Secured Party subject to the rights of Lessees under Leases.

(c) In the event that any mandatory requirement of applicable law shall obligate the Secured Party 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 the address for notice pursuant to § 7 hereof 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.

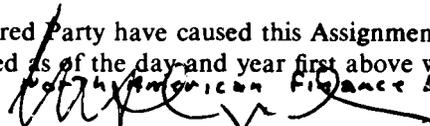
(d) The proceeds from the sale of the Leases pursuant to any of the provisions of this § 18 (or otherwise received hereunder by the Secured Party) shall be applied first, to any expenses incurred in enforcing this Assignment, and, second, to the Indebtedness.

(e) No sale or other disposition of all or any part of any unit of Equipment by the Secured Party pursuant to this § 18 shall be deemed to relieve the Company of its liability for any deficiency in any part of its obligations hereunder.

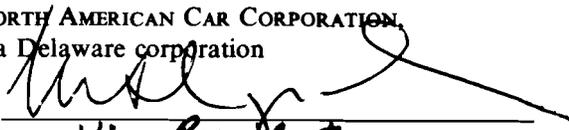
§ 19. *Releases.* Upon request of the Company, the Secured Party will release the security interest of the Secured Party hereunder in any Lease if the security interest of the Secured Party in the Equipment subject to the Lease has been released.

§ 20. *Counterparts.* This Assignment of Leases may be executed by the parties hereto individually, or in any combination of the parties hereto, in several counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Company and the Secured Party have caused this Assignment to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

By 
Title Vice President

222 S. Riverside Plaza
Chicago, Illinois

NORTH AMERICAN CAR CORPORATION,
a Delaware corporation
By 
Title Vice President

[CORPORATE SEAL]

ATTEST


Secretary

[CORPORATE SEAL]

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 by 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.

Norman M. Helibrandt
Notary Public

[SEAL]

My commission expires 5-6-75

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 by me duly sworn says that he is the Vice President of North American Financing, Inc., 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.

Norman M. Helibrandt
Notary Public

[SEAL]

My commission expires 5-6-78

ATTACHMENT I

Supplement to the Mortgage and to the Assignment of Leases

(the "Company") does hereby pledge, mortgage, and grant a security interest unto North American Car Corporation, a Delaware Corporation (the "Secured Party") in and to the railroad cars described in the Schedule attached hereto.

The Company hereby assigns to the Secured Party all its right, title, and interest in, to and under the following Leases, pursuant to and subject to the terms and conditions of the Assignment of Leases referred to above:

<u>Date of Lease</u>	<u>Lessee</u>	<u>Equipment Leased</u>	<u>Term of Lease</u>	<u>Monthly Rental</u>
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The Company hereby certifies that it has complied with all the terms and conditions of said Assignment of Leases, and that all representations and warranties contained in said Assignment are true and correct as of the date hereof.

This Supplemental Mortgage and Assignment of Leases is issued pursuant to and is governed by the terms and provisions of that certain Equipment Mortgage and Assignment of Leases dated December 18, 1974 among the Company and the Secured Party and filed under §20(c) of the Interstate Commerce Act on _____, 1974 at _____ as Document Number _____.

[CORPORATE SEAL]

ATTEST

_____ By _____
Title _____

STATE OF _____ }
COUNTY OF _____ } ss.:

On this _____ day of _____, 197____, before me personally appeared _____, to me personally known, who being by me duly sworn says that he is the _____ of _____, 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.

Notary Public

[SEAL]

My commission expires

ATTACHMENT II

NOTE

\$ _____, 197

On demand, for value received, the undersigned, _____ (herein called the "Company"), promises to pay to the order of North American Car Corporation (herein called the "Payee") the principal sum of _____ Dollars (\$ _____), payable in lawful money of the United States of America at the office of Payee in immediately available funds.

The Company shall pay interest (computed on a 365 or, when applicable, 366 day-year basis) on the unpaid principal amount of this Note from time to time outstanding from the date hereof, at a rate per annum equal to the Corporate Base Rate, plus $\frac{1}{4}$ of 1% per annum. Interest shall be payable quarterly in arrears at the office of the Payee in immediately available funds on the last day of each March, June, September, and December in each year after the date hereof commencing December 31, 1974, and at maturity. The Company shall pay interest on the unpaid principal amount hereof after maturity, whether by acceleration or otherwise until such amount is paid in full at a rate per annum equal to the Corporate Base Rate, plus 2% per annum. "Corporate Base Rate" as used herein shall mean the interest rate charged by The First National Bank of Chicago from time to time to its largest and most credit-worthy corporate borrowers for 90-day commercial loans. The interest rate under this Note shall change when and as said Corporate Base Rate changes.

If any payment of principal or interest on this Note shall become due and payable on a Saturday, Sunday or legal holiday such payment shall be made on the next succeeding business day and such extended time of the payment of principal shall be included in computing interest at the rate this Note bears in connection with such payment.

The Company expressly waives any presentment, demand, protest or notice in connection with this Note now, or hereafter, required by applicable law.

Payment of this Note is secured by, among other things, property in which the Payee and its successors and assigns have been given a security interest under the terms of the Mortgage and Assignment of Leases executed by the Company in favor of the Payee.

By _____

Title _____

