



NORTH AMERICAN CAR CORPORATION
 33 West Monroe
 Chicago, IL U.S.A. 60603
 Telephone 312.853.5000
 Telex #255222

No. 1-268A039
 Date SEP 25 1981
 Fee \$ 50.00
 ICC Washington, D. C.

13245
 RECORDATION NO. Filed 1425

SEP 25 1981 - 3 02 PM

INTERSTATE COMMERCE COMMISSION September 23, 1981

Secretary
 Interstate Commerce Commission
 Washington, D.C. 20423

RE: Section 11303 Filing: Equipment Mortgage and Assignment of Leases dated as of September 17, 1981 (the "Mortgage") from North American Car Corporation, 33 West Monroe Street, Chicago, Illinois 60603 ("Mortgagor"), in favor of Barclays Bank International Limited (the "Mortgagee").

Dear Mr. Secretary:

Enclosed for recording under Section 11303 of the Interstate Commerce Act are executed counterparts of the above Mortgage. Under the Mortgage, the Mortgagor, mortgage to the Mortgagee the railcars described on each supplement to the Mortgage, together with certain rights to, and leases of, those railcars described on the Supplement to the Mortgage.

Also enclosed is a check, payable to the Interstate Commerce Commission, in the amount of \$50.00 as the recording fee for the Release.

Pursuant to the Commission's rules and regulations for the recording of certain documents under Section 11303 of the Interstate Commerce Act, you are hereby requested to duly file two of the enclosed counterparts for record in your office and return the remaining copies, together with the Secretary's Certificate of Recording, to the messenger making this delivery.

If you have any questions, please contact me.

Very truly yours,

James M. Gillespie
 James M. Gillespie
 Attorney

JMG/wm
 enclosures

SEP 25 2 00 PM '81
 RECEIVED
 SEP 25 1981

Kenan P. Horton
Countersigned

Interstate Commerce Commission
Washington, D.C. 20423

9/25/81

OFFICE OF THE SECRETARY

**James M. Gillespie, Atty.
North American Car Corp.
33 West Wth Wth Wth Wth
Chicago, Illinois 60603**

Dear

Sir:

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **9/25/81** at **2:05pm** and assigned re-
recording number (s) **13245**

Sincerely yours,

James H. Payne
Acting Secretary

Enclosure (s)

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INTERSTATE COMMERCE COMMISSION

EQUIPMENT MORTGAGE AND ASSIGNMENT OF LEASES

THIS EQUIPMENT MORTGAGE AND ASSIGNMENT OF LEASES dated as of September 17, 1981 is executed by North American Car Corporation (the "Borrower") in favor of Barclays Bank International Limited (the "Bank") (which is hereinafter called the "Mortgage") pursuant to the terms of Section 5 of that certain Credit Agreement dated as of December 31, 1979 (the "Credit Agreement"), between the Borrower and the Bank and to secure the performance of its Obligations under the Credit Agreement, subject to the terms of which Credit Agreement this Mortgage is delivered, and a copy of which Credit Agreement (if the Bank so directs) is appended hereto as Attachment II hereto. Unless otherwise specified, capitalized terms used herein shall have the respective meanings set forth in the Credit Agreement.

NOW, THEREFORE, in consideration of the premises, the Borrower agrees as follows:

Section 1. Collateral.

Section 1.1 Grant of Security Interest. In order to secure the prompt and faithful performance and observance of the Obligations by the Borrower, the Borrower does hereby assign, pledge, mortgage, and grant a security interest unto the Bank in and to the following:

- (a) Any and all railroad cars described in Attachment I hereto which is made a part hereof and incorporated herein by this reference (the "Equipment");
- (b) All proceeds (including, without limitation, insurance and indemnity payments) from the sale or loss or other disposition of the Equipment; and
- (c) Any and all leases, whether now or hereafter existing, of Equipment (the "Leases") between the Borrower as lessor and other persons as lessees (the "Lessees"), including, without limitation,
 - (i) the right to receive all rent due thereunder,
 - (ii) all claims for damages arising out of the breach of any Lease,
 - (iii) the right, if any, to terminate any Lease, to perform thereunder and to compel performance of the terms thereof,
 - (iv) the right to take possession of the Equipment, subject

to the right of the Lessee and (v) all other rights, claims, causes of action, if any, which the Borrower may have against any Lessee with respect to the Leases.

All such Equipment, Leases, and rights, claims, causes of action and proceeds with respect thereto are herein collectively called "Collateral."

Section 1.2. Representations and Warranties. The Borrower represents and warrants:

(i) That it is the owner of all of the Equipment, that there are no encumbrances or liens of any kind or character against any of the Equipment (other than Leases and the lien of this Mortgage) or any Lease and that it has good right and lawful authority to assign, pledge, mortgage, and grant a security interest in the same.

(ii) That it has not assigned, pledged or mortgaged, and hereby covenants that it will not assign, pledge or mortgage, so long as this Mortgage shall remain in effect, the whole or any part of the rights or interests hereby assigned, pledged, mortgaged, and granted by it hereunder to anyone other than the Bank, its successors assigns.

Section 1.3. Maintenance and Repair. The Borrower agrees that, at its own cost and expense it will maintain and keep all the Equipment in good order and repair in accordance with industry standards.

Section 1.4. Inspections. The Bank shall have the right to inspect the Equipment and the records with respect thereto at such reasonable times as the Bank may request.

Section 1.5. Marking of Equipment. The Borrower will keep and maintain or cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each item of Equipment suitable for marking, in letters not less than seven-sixteenths of an inch in height.

"OWNERSHIP SUBJECT TO AN EQUIPMENT TRUST OR SECURITY AGREEMENT AND/OR VESTED IN A TRUSTEE OR OTHER PERSON OR ENTITY AS SET FORTH IN A BAILMENT AGREEMENT OR LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION."

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 Bank's security interest in the Equipment and its rights hereunder. Once the Equipment is so marked, the Borrower will not permit the identifying number of any item of Equipment to be changed.

Section 1.6. Destruction of Equipment. The Borrower 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.

Section 2. Defaults

Section 2.1. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- (a) There shall occur an Event of Default under Section 11 of the Credit Agreement;
- (b) The Borrower shall fail to perform any agreement under this Mortgage within thirty (30) days after notice from the Bank; or
- (c) Any representation made to the Bank in this Mortgage shall prove to be materially false at the time when made.

Section 3. Remedies.

Section 3.1. Remedies. Upon the occurrence and during the continuance of any Event of Default which is not cured within thirty (30) days of such occurrence, the Bank may do any one or more of the following acts regarding the Collateral, or any portion thereof, to the extent and in the manner authorized by Section 11.7 of the Credit Agreement:

- (a) exercise all the rights and remedies in foreclosure and otherwise granted to secured parties under the provisions of applicable laws;
- (b) institute legal proceedings for the specific performance of any covenants or agreement herein undertaken by the Borrower or for aid in the execution of any power or remedy herein granted;
- (c) institute legal proceedings to foreclose upon and against the security interest granted in and by this Mortgage, to recover judgment for all amounts

then due and owing as Obligations, and to collect the same out of any sale of the Collateral or of collections upon the Leases;

- (d) institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any Collateral;
- (e) notify Lessees under the Leases in the name of the Borrower or otherwise to make payments under the Lease directly to the Bank or as may otherwise be directed by the Bank;
- (f) demand, collect, and retain all hire, earnings and other sums due and to become due in respect of the Collateral from any party whomsoever, accounting only for the net earnings arising from such use, if any, after charging against any receipts from the use of the same and from any subsequent sale thereof all costs and expenses of and damages or losses by reason of, such use or sale; or
- (g) sell or dispose of all or any part of the Collateral, free from any and all claims of the Borrower or of any other party claiming by, through, or under the Borrower 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 Bank may determine, in its sole and complete discretion and in light of its own best interests, with or without previous demand on or notice to the Borrower or advertisement of any such sale or other disposal; and for the aforesaid purposes, all notices of sale, advertisements, and demands and any rights or equities of redemption otherwise required or available to the Borrower, under applicable law are hereby waived by the Borrower to the fullest extent permitted by applicable law. The power of sale hereunder shall not be exhausted by one or more sales, and the Bank from time to time may adjourn any sale to be made pursuant to this Section 3.1.

Section 3.2. Sale. Any sale of Collateral may be in one lot or 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 Bank may determine. The Bank may bid for and become the purchaser of the Collateral, or any of it, so offered for sale. In the

event that the Bank shall be the purchaser thereof, it shall be not be accountable to the Borrower upon a subsequent disposition of the Collateral.

Section 4. General.

Section 4.1. Rights Cumulative. Each and every power and remedy hereby specifically given to the Bank 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 Bank. 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 Bank 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 Borrower shall not otherwise alter or affect the Bank's rights or the Borrower's Obligations hereunder. The Bank's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Borrower's Obligations or the Bank's rights hereunder with respect to any subsequent payments or default therein.

Section 4.2. Expenses of Collection. The Borrower will pay all reasonable expenses, including attorneys' fees, incurred by the Bank in enforcing its remedies under the terms of this Mortgage or preparing to enforce its remedies after a default hereunder. In the event that the Bank shall bring any suit to enforce any rights hereunder and shall be entitled to judgment, then in such suit the Bank may recover reasonable expenses including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

Section 4.3. Applicable Laws. Any provision of this 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 Mortgage. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Borrower to the full extent permitted by law, it being the intention of the Borrower that this Mortgage shall be deemed to be, inter alia, a security agreement and enforced as such.

Section 4.4. Waiver. Except as otherwise provided in this Mortgage, the Borrower, 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 Bank's rights under this Mortgage and any and all rights of redemption. In consideration of the transactions contemplated herein, the Borrower hereby expressly waives and releases all its rights, benefits and protections given it by Sections 22A, 22B, 22C and 22D of The Bills of Sale Act (British Columbia) or any amending, successor or similar legislation in the Province of British Columbia or elsewhere, where applicable.

Section 4.5. Satisfaction of Mortgage and Termination of Mortgage. When all the Obligations of the Borrower hereunder and under the Credit Agreement have been fulfilled, the Bank shall release the lien of this Mortgage with respect to the Collateral by an appropriate document in recordable form and thereupon this Mortgage shall be satisfied and void. The Bank, shall also release a portion of the Equipment from the lien of this Mortgage from time to time as provided by Section 5.4 of the Credit Agreement, upon the request of the Borrower.

Section 4.6. Payment of Expenses. The Borrower will pay for all the costs and expenses incident to the enforcement of this Mortgage by the Bank and all reasonable costs and expenses in connection with the perfection of the Bank's lien upon the Equipment.

Section 4.7. 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 Mortgage.

Section 4.8. Modifications. No variation or modification of this Mortgage and no waiver of any of its provisions of conditions shall be valid unless in writing and signed by duly authorized representatives of the Bank and the Borrower.

Section 4.9. Notices. All notices hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to the respective addresses set forth in the Credit Agreement.

Section 4.10. Law Governing. The terms of this Mortgage and all rights and obligations hereunder shall be governed by the laws of Illinois; provided, however, that the Bank shall be entitled to all rights conferred by the filing, recording or deposit hereof in the appropriate office(s) pursuant to Section 11303 of the Interstate Commerce Act or in such other offices as may be appropriate in the jurisdiction in which the Equipment is operated.

Section 4.11. Counterparts. This Mortgage may be executed in several counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement.

Section 4.12. Successors and Assigns. This Mortgage shall be binding upon the Borrower and inure to the benefit of the Bank, and its successors and assigns. The Borrower may not assign or transfer its rights hereunder without the prior written consent of the Bank.

IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed by its duly authorized representative as of the day and year first set forth above.

NORTH AMERICAN CAR CORPORATION

By Paul M. O'Hara
Paul M. O'Hara
Its Assistant Treasurer

CORPORATE SEAL

ATTEST:

Kay T. Gatell
Kay T. Gatell
Assistant Secretary

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On this seventeenth day of September, 1981, before me personally appeared Paul M. O'Hara, to me personally known, who, being by me duly sworn, says that he is a Assistant Treasurer of North American Car Corporation that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was on September 17, 1981, 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.



Colleen M. Regan

Notary Public

(NOTARIAL SEAL)

My Commission Expires June 10, 1985.

ATTACHMENT I

To be attached to and to become a part of that certain Equipment Mortgage and Assignment of Leases dated as of September 17, 1981 (the "Mortgage"), between North American Car Corporation and Barclays Bank International Limited.

<u>Description of Equipment Subject to the Mortgage</u>	<u>Quantity</u>	<u>Lessee</u>	<u>Serial Number</u>	<u>Date of Lease</u>	<u>Term of Lease</u>
Class 111A100W3, 100 Ton 13,500 Gal. Tank Cars	5	International Minerals	14300-14304	1/81	5 Years
Class 111A100W3, 100 Ton 13,500 Gal. Tank Cars	53	TexasGulf, Inc.	14306-14331 14333-14358 14373	5/81	5 Years
Class LO 100 Ton 5750 Cubic Foot Hopper Car	1	Georgia Pac- fic Corp.	60483	4/81	1 Year
Class LO 100 Ton 4750 Cubic Foot Hopper Cars	338	CNW Railroad	63007, 63009-63106, 63216-63239, 63705-63795, 63798-63879, 63905-63943, 63945-63946, 63952	2/81	1 Year